Case 6:08-cv-00471-GKS-GJK Document 9 Filed 05/21/2008 Page 1 of 9 Case 6:08-cv-00471-GKS-GJK Document 8 Filed 05/01/2008 Page 1 of 9

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA ORLANDO DIVISION

Crist	v	THORNTON,
SEAN	K.,	THORNIUM

Plaintiff,

Civil No. 06:08-cv-471-Orl-18GJK

٧.

WAL-MART STORES, INC.,

Defendant.

CONSENT DECREE

This matter is before the Court for entry of this Consent Decree ("Decree") agreed to by plaintiff Sean K. Thornton ("Thornton") and defendant Wal-Mart Stores, Inc. ("Wal-Mart"), with the purpose of effectuating a final compromise and settlement of all claims raised in Thornton's Complaint. After review and consideration, the Court believes that entry of this Decree is in the interest of justice.

1. Thornton commenced this action in the United States District Court for the Middle District of Florida, Orlando Division, alleging that Wal-Mart violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") by denying Thornton reemployment and the wages Thornton would have earned from such reemployment after his completion of active military service in the uniformed services. Wal-Mart denies Thornton's allegations that it has violated USERRA with respect to him. Further, Wal-Mart asserts that it has been and remains committed to complying with all of the provisions of

USERRA, and remains supportive of veterans returning from service in the uniformed services. Wal-Mart agrees not to discriminate in employment against and not to take any adverse action against any person because such person has assisted or otherwise participated in an investigation or proceeding in connection with Thornton's USERRA complaint to the Department of Labor or this case.

2. As a result of settlement discussions, Thornton and Wal-Mart (collectively, the Parties") have resolved their differences and have agreed that this action should be settled by entry of this Consent 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 against Wal-Mart in the Complaint. This Decree is being entered with the consent of the Parties, and shall not constitute an adjudication or finding on the merits of this action or be construed as an admission by Wal-Mart of any violations of USERRA, or any other law, rule or regulation, dealing with or in connection with equal employment opportunities.

STIPULATIONS

- 3. Pursuant to USERRA, the Parties acknowledge the jurisdiction of the United States District Court for the Middle District of Florida, Orlando Division, over the subject matter of this action and of the Parties to this case for the purpose of entering and, if necessary, enforcing this Decree.
- 4. The Parties acknowledge that venue is proper in this district for purposes of this Decree and any proceedings related to this Decree. All conditions precedent to the institution of this action have been fulfilled.
 - 5. The Parties hereby waive findings of fact and conclusions of law.

FINDINGS

- 6. Having examined the terms and provisions of this Decree, the Court finds the following:
 - a. The Court has jurisdiction over the subject matter of this action and the Parties to this action;
 - Both Thornton and Wal-Mart are adequately represented;
 - c. The terms and provisions of this Decree are lawful, fair, reasonable and just;
 - d. 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; and
 - e. The entry of this Consent Decree will further the objectives of the USERRA and other applicable law, and will be in the best interests of the parties.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

REMEDIAL REQUIREMENTS

7. Wal-Mart shall, within ten (10) days from the date of entry of this Decree, pay
Thornton a certified check in the amount of Twelve Thousand Dollars (\$12,000.00) in back pay,
less legally required employee income tax withholding and other statutory employee deductions.
Wal-Mart shall pay all monies withheld from this back pay award to the appropriate
governmental agencies. Wal-Mart shall separately pay the appropriate employer's contribution
to the Social Security fund due on the monetary award; i.e., the employer's contribution shall not

be deducted from the monetary award to Thornton. Wal-Mart shall mail Thornton the certified check addressed as follows:

Sean K. Thornton 1269 Polk Avenue Deltona, FL 32738

Within fourteen (14) days from the date of Wal-Mart's mailing of its certified check to Thornton, Wal-Mart shall provide written confirmation of that fact to the following counsel for Thornton:

Timothy A. Johnson
Maria H. Rios
Trial Attorneys
United States Department of Justice
Civil Rights Division
Employment Litigation Section, PHB, Room 4015
950 Pennsylvania Avenue NW
Washington, D.C. 20530

- 8. Within thirty (30) days from the date of entry of this Decree, Wal-Mart shall ensure that Thornton's personnel file includes a record stating that Thornton resigned voluntarily from Wal-Mart.
- 9. Should Thornton require a reference from Wal-Mart, he may provide to the prospective employer or other third party Wal-Mart's "Work Number" (1-800-9-WORK-No), which will identify Thornton's total time with the company, termination date, and job title, and no additional information.

DISPUTE RESOLUTION AND COMPLIANCE

10. Upon motion of either party, the Court may schedule a hearing for the purpose of reviewing Wal-Mart's compliance with this Decree. The Parties shall engage in good faith efforts to resolve any dispute concerning compliance prior to either or both seeking review by the Court. The Parties shall be required to give notice to each other thirty (30) days before moving

for review by the Court. The Parties may conduct expedited discovery under the Federal Rules of Civil Procedure for the purpose of determining Wal-Mart's compliance with this Decree or defending against a claim of non-compliance.

RETENTION OF JURISDICTION

11. The Court shall retain jurisdiction over this case and shall have all available equitable powers, including injunctive relief, to enforce this Decree. This Consent Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted by Thornton in this action. This Decree shall expire and this action shall be dismissed, without further order of this Court, one year from the date of entry hereof.

MISCELLANEOUS

- 12. All parties shall bear their own costs and expenses of litigation, including attorneys' fees.
- 13. The relief provided in this Consent Decree is specific to the facts of Thornton's situation and this case and should not be used as precedent in future matters. Nothing in this paragraph relieves Wal-Mart from fulfilling its obligations set forth under USERRA.
- 14. If any provision of this Decree is found to be unlawful, only the specific provision in question shall be affected and the other provisions will remain in full force and effect.
- 15. The terms of this Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives and assigns of Wal-Mart and upon the heirs, successors and assigns of Thornton.

Case 6:08-cv-00471-GKS-GJK Document 9 Filed 05/21/2008 Page 6 of 9 Case 6:08-cv-00471-GKS-GJK Document 8 Filed 05/01/2008 Page 6 of 9

- 16. This Decree constitutes the entire agreement and commitments of the Parties.

 Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by Wal-Mart and Thornton, and approved by the Court.
- 17. The effective date of this Decree shall be the date upon which it is entered by the Court.

APPROVED and ORDERED this 2/ day of may, 2008.

UNITED STATES DISTRICT JUDGE

G. KENDALL SHARP Senior U.S. District Judge

SEAN K. THORNTON

JOHN M. GADZICHOWSKI (WI Bar No. 1014294)

Acting Chief

WILLIAM B. FENTON (DC Bar No. 414990)

Deputy Chief

TIMOTHY A. JOHNSON (VA Bar No. 73077)

MARIA H, RIOS (PR Bar No. 10908)

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Case 6:08-cv-00471-GKS-GJK Document 9 Filed 05/21/2008 Page 7 of 9 Case 6:08-cv-00471-GKS-GJK Document 8 Filed 05/01/2008 Page 7 of 9

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ON BEHALF OF PLAINTIFF SEAN K. THORNTON

PETER R. CORBIN

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225 Water Street, Suite 710

Jacksonville, FL 32202

Telephone: (904) 357-2002 Facsimile: (904) 357-2001

ON BEHALF OF DEFENDANT WAL-MART STORES, INC.

Case 6:08-cv-00471-GKS-GJK Document 9 Filed 05/21/2008 Page 8 of 9 Case 6:08-cv-00471-GKS-GJK Document 8 Filed 05/01/2008 Page 8 of 9

APPENDIX A RELEASE OF ALL CLAIMS

STATE OF FLORIDA)	
)	SS
COUNTY OF VOLUSIA)	

For and in consideration of my acceptance of the relief to be provided to me pursuant to the provisions of the Consent Decree I have signed and that is to be entered in the case of Sean K. Thornton v. Wal-Mart Stores, Inc., Civil Action No. 06:08-cv-471-Orl-18GJK, filed in the United States District Court for the Middle District of Florida, Orlando Division, I, Sean K. Thornton, hereby forever release and discharge defendant in this case, Wal-Mart Stores, Inc., as well as its current, former and future officials, employees, agents and successors from all legal and equitable claims arising out of the Complaint filed in this action and USERRA Case No. 04-FL-2006-00050-10-E filed with the United States Department of Labor.

I also, for myself and for each of my heirs, executors, administrators, and assigns, hereby fully release, acquit, and forever discharge Wal-Mart and each of its predecessors, successors and assigns, parent corporations, subsidiary corporations, affiliated corporations, and the officers, directors, shareholders, partners, employees, attorneys and agents, past and present, of each of the aforesaid entities ("Related Persons") of and from any and all claims, liabilities, causes of action, damages, costs, attorneys' fees, expenses, and compensation whatsoever, of whatever kind or nature, in law, equity or otherwise, whether known or unknown, vested or contingent, suspected or unsuspected, that I may now have, have ever had, or hereafter may have relating directly or indirectly to the allegations in the Complaint, including, but not limited to, claims for wages, back pay; front pay; reinstatement; damages; or benefits. In this respect, I also release any and all claims I may have that arose prior to the date of this Consent Decree under the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

I understand that the relief to be provided to me by Wal-Mart under the terms of the Consent Decree does not constitute an admission by Wal-Mart hereby of the validity of any claim raised by me, or on my behalf. I further understand that Wal-Mart expressly denies having violated any of my legal rights and that the payments and other terms and conditions set forth in this release are in settlement of disputed claims.

This release and the referenced Consent Decree constitute the entire agreement between Wal-Mart and me, without exception or exclusion.

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

Case 6:08-cv-00471-GKS-GJK Document 9 Filed 05/21/2008 Page 9 of 9 Case 6:08-cv-00471-GKS-GJK Document 8 Filed 05/01/2008 Page 9 of 9

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

Signature:

Sean K. Thornton

Date: 4 30/0

Subscribed and sworn to before me this 20 day of 1201

Notary Public

WENDY E IMESZALSKI
Notary Public - State of Florida
My Commission Expires Apr 13, 2009
Commission # DD 418546
Bonded By National Notary Assn.

My Commission expires: