

Re: United States et al. v. Consolidated City of Jacksonville et al., Civil Action 3:12-cv-451-J-32MCR (M.D. Fla.), Smith et al. v. Consolidated City of Jacksonville et al., Civil Action 3:11-cv-345-J-32MCR (M.D. Fla.), and EEOC v. Jacksonville Association of Fire Fighters Local 122, IAFF, Civil Action 3:12-cv-491-J-32MCR (M.D. Fla.).

**Please read these documents carefully.**

This letter is to notify you of the settlement of civil lawsuits among Plaintiffs United States of America, National Association for the Advancement of Colored People, Jacksonville Branch (“NAACP”), Jacksonville Brotherhood of Firefighters (“JBOF”), the Equal Employment Opportunity Commission (“EEOC”), and two groups of private plaintiffs (the Smith Plaintiffs and Baker Intervenors), and Defendants Consolidated City of Jacksonville and Jacksonville Association of Fire Fighters, Local 122, IAFF (“Union”) that may affect you.

Enclosed please find three documents:

1. **NOTICE OF SETTLEMENT AND FAIRNESS HEARING**

This document describes the basis of the lawsuit and a summary of the terms of the settlement. The settlement agreement itself is available at:

<https://www.justice.gov/crt/employment-litigation-section-cases#decree>

[www.coj.net/departments/fire-and-rescue/jfrd-consent-decree](http://www.coj.net/departments/fire-and-rescue/jfrd-consent-decree)

[www.myjfrd.com/About-JFRD/Notice-of-Proposed-Consent-Decree](http://www.myjfrd.com/About-JFRD/Notice-of-Proposed-Consent-Decree)

In addition, the document provides the time and place of a **Fairness Hearing** regarding the settlement and tells you how to make an objection to the terms of the settlement if you choose to do so.

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

3. **OBJECTION FORM**

*If you do not return the form on time, you may lose your opportunity to object.*

Sincerely,

City of Jacksonville

Enclosures

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

On July 26, 2018, the Parties (United States of America; the National Association for the Advancement of Colored People, Jacksonville Branch (“NAACP”), the Jacksonville Brotherhood of Firefighters (“JBOF”); the Equal Employment Opportunity Commission (“EEOC”), two groups of private individuals (Smith Plaintiffs and Baker Intervenors), the Consolidated City of Jacksonville (“City”), and the Jacksonville Association of Fire Fighters, Local 122, JAFF (“Union”)) settled civil lawsuits.

### **What are these lawsuits about?**

The United States, the NAACP, the JBOF, the Smith Plaintiffs and Baker Intervenors brought lawsuits claiming that the City discriminated against African-American firefighters in promotions in the fire department because certain promotion tests that the City used violated the law (Title VII of the Civil Rights Act).

In their lawsuit, the United States, Baker Intervenors, the NAACP, and the JBOF allege that the City used promotional exams that had a disparate impact on African-American candidates, and that the exams were not sufficiently job related nor consistent with business necessity. The United States, Baker Intervenors, the NAACP, and the JBOF do not, however, allege that the City has intentionally discriminated against any person or group of persons.

The Smith Plaintiffs brought a separate lawsuit against the City and the Union claiming that the City used promotional exams that had a disparate impact on African-American and Native-American candidates, and that the exams were not sufficiently job related nor consistent with business necessity. The Smith Plaintiffs also alleged disparate treatment claims.

The Equal Employment Opportunity Commission (“EEOC”) brought a lawsuit against the Union claiming that the Union negotiated and advocated for a discriminatory promotional process that resulted in disparate impact against African Americans.

The City and the Union dispute the Plaintiffs’ claims and allegations, and deny that they have violated Title VII. The Defendants contend that the promotional process and tests in use at JFRD did not have disparate impact against African Americans, and were content valid, job-related, and consistent with the City’s business necessity, or otherwise consistent with the requirements of Title VII. However, in the interest of resolving these matters, the Parties have voluntarily entered into a Consent Decree settling the lawsuits.

### **Why did I get this notice?**

You received this notice because you may be affected by the terms in the Consent Decree. This notice summarizes the terms of the Consent Decree. It also explains how you may object to it, if you wish. The Court will consider objections before approving the Consent Decree.

### **What are the terms of the Consent Decree?**

If the Court approves the Consent Decree, the City has agreed to:

1. Develop new promotional examinations for the positions of Engineer, Lieutenant, Captain, and District Chief in all divisions.
2. Expend a total sum of \$4,900,000.00 as set forth in this Decree to cover Monetary Relief to eligible individuals, other specific settlement relief to named plaintiffs, and attorneys' fees.
3. Create up to 40 new Settlement Promotion positions. These newly-created positions will be roving assignments, and will result in an overall increase of up to 40 additional JFRD positions.

**What will the new promotional examinations look like?**

Under the terms of the Decree, the content of the new promotion examinations for each position will depend on the results of a job analysis for that position. New promotion examinations will measure more than job knowledge. All new examinations must comply with requirements of the collective bargaining agreements currently in place for the positions of Engineer, Lieutenant, Captain, and District Chief.

**Which individuals are eligible to receive Monetary Relief and/or Settlement Promotion Positions under the Consent Decree?**

Claimants are eligible for relief. Claimants are African Americans and private plaintiffs who took any of the Engineer, Lieutenant (Suppression), Captain (Suppression), and/or District Chief (Suppression) examinations between 2004 and 2011, and Smith plaintiffs who took the 2008 Captain (Rescue) and/or the 2008 District Chief (Rescue) examinations. Claimants must return the necessary forms within specific time periods to be eligible for relief. Claimants seeking Settlement Promotions must meet other requirements as well.

**How will the \$4.9 million Settlement Fund be distributed?**

The money in the Settlement Fund shall be distributed as follows:

- a. Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000) to be allocated among eligible Claimants seeking Monetary Relief;
- b. Five Hundred Twenty Thousand Dollars (\$520,000) to be distributed equally among the Smith Plaintiffs as specific settlement relief;
- c. One Hundred Thirty Thousand Dollars (\$130,000) to be distributed equally among the Baker Intervenors as specific settlement relief;
- d. Sixty Thousand Dollars (\$60,000) to the JBOF organization as specific settlement relief;
- e. Forty Thousand Dollars (\$40,000) to the NAACP organization as specific settlement relief; and
- f. One Million Four Hundred Thousand Dollars (\$1,400,000) to resolve attorneys' fees and costs claimed by the NAACP, JBOF, Baker Intervenors, and Smith Plaintiffs.

**How will the \$2,750,000 in Monetary Relief be allocated among the Claimants eligible to receive Monetary Relief?**

The United States will initially determine each Claimant's share of the amount available for Monetary Relief. Under the Decree, the United States will take into account the date of the promotion examination which the Claimant took and subsequent personnel action with respect to the Claimant (i.e., promotion, retirement, separation from service). The Court will make the final decision on each Claimant's share of the \$2,750,000 available for Monetary Relief.

**What are the new Settlement Promotion positions?**

The City will create up to 26 Engineer positions, 7 Lieutenant (Suppression) positions, 4 Captain (Suppression) positions, 2 District Chief (Suppression) positions, and 1 Lieutenant (Rescue) position. All newly-created positions will be roving assignments. Once a Claimant vacates the roving assignment, that position will remain budgeted for regular promotions until the Claimant who initially filled the position separates from JFRD.

**Who is eligible for the Settlement Promotions?**

African Americans who scored a 70 or above on an examination for a promotional position and were not promoted to that position, or to an equal (or higher) ranking position in another division, are eligible for a Settlement Promotion. Eligibility for Settlement Promotion depends on several other factors, including whether the Claimant is still employed at JFRD, the Claimant's current rank, the Claimant's disciplinary history, and whether the Claimant met the qualifications set forth in the Professional Growth and Development Plan at the time the Claimant took the examination.

**Will the Settlement Promotions created by the Consent Decree mean fewer promotions for other people?**

No. The Settlement Promotions are newly-created positions that do not take positions away from individuals on the eligibility lists developed from promotion examinations.

**Will the people who get Settlement Promotions have more seniority than people already in the rank?**

No. The Settlement Promotions do not come with retroactive seniority. The relief in the Decree does not affect the competitive seniority benefits of any JFRD employee. Seniority will accrue only for time actually spent in rank.

**Is there any other type of relief provided?**

Yes. Claimants who receive Monetary Relief may also be eligible to have their pension benefits adjusted. Pension adjustment is available only to those Claimants who: (1) have entered the Deferred Retired Option Program ("DROP") or retired (thereby establishing the Claimant's bi-weekly pension benefit) by Final Entry of the Decree; (2) were not promoted after last taking a challenged exam; and (3) do not elect a lump-sum distribution. All employer-side and employee-side contributions to adjust pension benefits will come from the Claimant's share of the \$2,750,000 available for Monetary Relief and shall be based on a formula agreed to by the parties.

**What happens next?**

The Court will hold a "Fairness Hearing" to determine whether the terms of the Consent Decree are fair, reasonable, adequate, and otherwise consistent with federal law. The hearing will be on December 19, 2018, at 2:00 p.m, at the Bryan Simpson United States Courthouse, Courtroom 10D, 300 North Hogan Street, Jacksonville, Florida 32202. If the Court approves the Decree, the parties will take the actions in the Decree and execute the relief.

**What if I object to the terms of the Consent Decree?**

You may submit an objection to any of the terms of the Decree. Any objections must be submitted in writing. Instructions for filing an objection are enclosed with this notice. **Making an objection is voluntary, but if you do not object by November 19, 2018, you may be prohibited from taking any action challenging this Decree in the future.**

**How do I file an objection?**

Follow the instructions in the enclosed objection forms.

**Can I attend the Fairness Hearing?**

Yes. The Fairness Hearing will be held on **Wednesday, December 19, 2018, at 2:00 p.m.**, at the Bryan Simpson United States Courthouse, Courtroom 10D, 300 North Hogan Street, Jacksonville, Florida 32202.

**Can I speak at the Fairness Hearing?**

The judge may allow individuals to speak at the hearing. If you are interested in doing so, please indicate that on your objection form.

**Do I need a lawyer to object to the Consent Decree?**

No, you do not need a lawyer, but you may consult one or retain one at your own cost if you wish to do so.

**Can I obtain a copy of the Consent Decree settling the lawsuit?**

Yes. A publicly-accessible link to a pdf version of the Consent Decree has been posted on the City's website at [www.coj.net/departments/fire-and-rescue/jfrd-consent-decree](http://www.coj.net/departments/fire-and-rescue/jfrd-consent-decree) and at <https://www.justice.gov/crt/employment-litigation-section-cases#decree>. You may also contact the Department of Justice at 1-833-341-4673 for a copy.

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

1. You may object to the terms of the Consent Decree. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from taking any action challenging 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 submitted by November 9, 2018.** You may submit your objection by mail or by email. **If your objection is not submitted by this date, your objection may not be considered and you may be prohibited from objecting at a later time. The submission date of the objection will be the date of the postmark by United States Postal Service or the date on the email you send.**
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. Objections must be sent to the following:

**By EMAIL**

If you submit an objection by email, it must be sent to:

Jacksonville.Settlement@usdoj.gov

**By Mail**

If you submit an objection by mail, submit your objection to the following address:

U.S. Department of Justice  
Consolidated City of Jacksonville Litigation Team  
Civil Rights Division/ELS  
P.O. Box 14400  
Washington, D.C. 20044-4400

5. The court will hold the Fairness Hearing on **Wednesday, December 19, 2018, at 2:00 p.m.**, at the Bryan Simpson United States Courthouse, Courtroom 10D, 300 North Hogan Street, Jacksonville, Florida 32202. 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 1-833-341-4673. If you do call this number, please leave your name, a brief explanation of the reason for your call, your telephone number, and a time when you can be reached. Your call will be returned as soon as possible. The Department of Justice can provide information on settlement, however, it is not authorized to provide legal advice to individuals.

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	No. 3:12-cv-451-J-32MCR
	)	
v.	)	No. 3:11-cv-345-J-32MCR
	)	
	)	No. 3:12-cv-491-J-32MCR
CONSOLIDATED CITY OF JACKSONVILLE,	)	
<i>et al.</i> ,	)	
	)	
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 of America, the EEOC, National Association for the Advancement of Colored People, Jacksonville Branch, Jacksonville Brotherhood of Firefighters, private plaintiffs, the Consolidated City of Jacksonville and the Jacksonville Association of Fire Fighters, Local 122.

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

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

Email 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 [DATE] IF MAILED, AND TRANSMITTED BY [DATE] IF SUBMITTED BY EMAIL.**