

DOCKETED

OCT 26 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

OCT 21 2004

EDITH JONES, et al.,

Plaintiffs,

v.

R.R. DONNELLEY & SONS,

Defendant.

No. 96 C 7717 JUDGE MATTHEW F. KENNELLY
Judge Kennelly UNITED STATES DISTRICT COURT

STIPULATION AND SETTLEMENT AGREEMENT

R.R. Donnelley & Sons Company (“Donnelley” or “the Company”) and the Plaintiffs and class members covered by this Agreement in the action entitled *Edith Jones, et al. v. R.R. Donnelley & Sons*, Civil Action No. 96 C 7717, having settled all remaining issues, enter into this Agreement to set forth the specific terms of the settlement as follows:

A. Prior Orders In This Action

By Order dated April 6, 2001, the Court certified the following classes:

All African-American employees of R.R. Donnelley who were employed at the Chicago Manufacturing Division and who were discharged during the shutdown of that division and were not transferred to another Donnelley division [Class 1].

All African-American employees of R.R. Donnelley who were employed at the Chicago Manufacturing Division at anytime from November 1992 to the present as non-regular employees (including temporary, casual, contract, contingent, task force, etc.) [Class 2].

All African-American employees of R.R. Donnelley who worked at (a) the Dwight division; (b) the Pontiac division; (c) the Chicago Financial Division; or (d) the Chicago Manufacturing Division from November 1992 to the present and were subjected to racial harassment so pervasive as to create a hostile working environment ((a), (b), (c), and (d) are each separate subclasses) [Class 3].

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By Order dated March 31, 2003, the Court dismissed with prejudice all claims and actions in *Jones* except for those claims related to Plaintiffs' and Class members' employment at the Chicago Manufacturing Division ("CMD") and encompassed in Classes 1 and 2 and the CMD subclass of Class 3.

B. Settlement Of The Remaining Class Claims

1. Settlement Class Definition

This Agreement now settles the claims and actions of all individuals included in Classes 1 and 2 and the CMD subclass of Class 3 previously certified by the Court. For purposes of this settlement, the Class shall be defined (and to the extent necessary, modified) as: "All African-American present and former employees of Donnelley who worked at the Chicago Manufacturing Division at any time after November 25, 1992 through its closing, and to whom Notice was sent pursuant to Court Order dated July 28, 2004, who were (1) discharged during the shutdown of that division and were not transferred to another Donnelley division; (2) employed as non-regular employees (including temporary, casual, contract, contingent, task force, etc.); and/or (3) subjected to racial harassment so pervasive as to create a hostile working environment ("the Class")."

2. Monetary Relief

a. In full settlement and satisfaction of all monetary claims of and payments to all members of the Class and the claims for attorneys' fees and costs herein, Donnelley shall pay the sum of Fifteen Million Dollars (\$15,000,000) into a common fund ("Common Settlement Fund") for distribution to the eligible members of the Class, and the attorneys representing them in such manner as described herein. Within fifteen (15) business days of the Court's preliminary approval of this Settlement Agreement, in the form attached hereto as Exhibit A, Defendant shall place in an interest-bearing escrow account a sum equal to the Common Settlement Fund.

Within five (5) business days of the later of the expiration of the time for appeal of the Final Order, provided for in Section C.3 herein dismissing all remaining Class claims, if no appeal is filed, or upon the settlement being upheld on appeal after the conclusion of all appeals, Donnelley shall distribute from the escrow account the funds to counsel for Plaintiffs for distribution to each eligible Claimant, as defined herein, in the prescribed amount, as provided herein including incentive pay awards set forth below in subparagraph e. and for payment of counsel's Court-approved fees and costs. All payments to Claimants shall be increased proportionately by any interest earned in the escrow accounts. The residual funds, if any, will be disbursed pursuant to paragraph B.2.k.

b. In the event the settlement and Final Order are not upheld on appeal, the Common Settlement Fund and all interest earned thereon shall be returned to Donnelley.

c. Plaintiffs' attorneys shall file a motion for attorneys' fees and costs to be heard at the time of the fairness hearing. At the fairness hearing, the Court shall determine what amount shall be awarded for attorneys' fees and costs. The Plaintiffs' attorneys represent and agree herein that they will limit their petition for fees and costs to thirty-three and one-third percent of the total gross settlement. Donnelley shall not oppose a petition for such amount. The amount to be determined by the Court shall be paid from the Common Settlement Fund.

d. The costs of notice and other administrative costs incurred in effectuating this Agreement shall be borne by Plaintiffs' attorneys. Plaintiffs' attorneys shall be reimbursed for all such reasonable costs from the Common Settlement Fund.

e. The amount remaining in the Common Settlement Fund after deductions made in accordance with paragraphs B.2.c. and d. above shall be the "Net Common Settlement Fund." This Fund shall be distributed to all Class members who sign and return releases

("Claimants") as follows: Plaintiffs' counsel will seek an incentive award for eleven plaintiffs and class members who performed substantial services for the benefit of the class. Plaintiffs' counsel will seek awards ranging from \$5,000 to \$50,000 for those individuals for a total of \$245,000. The remainder of the Net Common Settlement Fund shall be distributed to all Class members who sign and return releases ("Claimants") in accordance with the distribution schedule as follows:

Payment Amounts by Service Years for
Claimants in Jones v. RR Donnelley

Service Years	# of Individuals	Amount of payment	Individuals as % of Class
21+	232	\$30,000	39.4%
16-20	53	\$20,000	9.0%
11-15	44	\$15,000	7.5%
6-10	76	\$7,500	12.9%
2-5	137	\$3,170	23.3%
<2	47	\$1,500	8.0%
	589		100.0%

The above amounts may be increased by interest earned in an escrow account.

f. No later than November 5, 2004, Plaintiffs' counsel shall mail a notice, in the form attached as Exhibit B, to all those who have been identified as included within the settlement class definition. This Settlement Notice will inform Class members about this Settlement Agreement and will also advise Class members of the opportunity to object and to appear at a fairness hearing at which the Court will determine whether to approve this Settlement Agreement.

g. As a condition for receipt of any money provided for in this Agreement and in consideration thereof, each otherwise entitled Class member (or his or her heirs, estate or personal representative) will be required to execute and deliver, by a date certain, a waiver and release, in the form attached hereto as Exhibit C, agreeing to release Donnelley from and not to initiate any legal action against Donnelley for any and all claims, as provided in the release, which waiver and release shall be binding on all Class members, their heirs, estates and personal representatives. The Notice shall also inform Class members of the requirement to sign the waiver and release and enclose same for their review, execution and return.

h. A Class member who desires to be a claimant herein must sign and return the waiver and release to the class counsel, H. Candace Gorman, Esq., 542 South Dearborn Street, Suite 1060, Chicago, Illinois 60605, in the envelope provided no later than November 19, 2004. All waiver and release forms not received by this date will not be considered and the Class member will not be eligible for distribution from the Net Common Settlement Fund unless the envelope is returned by the post office for lack of a valid or current address, at which time Plaintiffs' counsel will attempt to locate those individuals through the use of search firms and/or other reasonable methods. Any individuals who cannot be located within a reasonable time period after the initial distribution of funds will be deemed ineligible for distribution from the Common Settlement Fund and the distribution allocated to said individual will be deemed residual.

i. All objections to the Settlement Agreement or to the proposed distribution to an eligible Class member must be presented in writing no later than November 19, 2004 and be mailed to H. Candace Gorman, Esq. at the above address. Any objections not so filed and served shall be deemed to have been waived.

j. A final distribution of the Net Common Settlement Fund shall be ordered by the Court subject to the fairness hearing. Under no circumstances shall the total settlement amount for settlement of the Class claims be increased in excess of Fifteen Million Dollars (\$15,000,000) plus any interest accrued pursuant to this Agreement.

k. Any residual funds, as described in Paragraph B.2.a. herein, shall be allocated on an equal basis and distributed to one civic or charitable organization of Donnelley's choosing and one of Plaintiffs' choosing provided that both must provide a substantial portion of their charitable services within the Chicagoland area.

C. Implementation and Effect of Settlement

1. This Agreement will be submitted by counsel for the Plaintiffs and for Donnelley to the Court with the request that the Class settlement be approved pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. A form of the requested Order seeking preliminary approval of this Agreement and setting a fairness hearing be held to determine whether the Class settlement is adequate, proper, fair and reasonable is attached hereto as Exhibit A. The Order shall also provide that notice, in the form attached hereto as Exhibit B, shall, if approved by the Court, be mailed to the last know addresses of all identifiable Class members.

2. Upon the final approval of this Class settlement by the Court after a fairness hearing pursuant to Rule 23 of the Federal Rules of Civil Procedure, the parties shall submit to the Court a proposed Stipulation of Dismissal and Final Order, attached hereto as Exhibit D.

3. Upon entry of a Final Order approving this Settlement Agreement by the Court, after notice and an opportunity for all Class members to be heard regarding the Class settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, all remaining claims and actions in *Jones* in their entirety shall be settled, terminated and dismissed with prejudice, and the Order

shall be binding and final as to all claims which have been or could have been advanced on behalf of Plaintiffs and the members of the Class against Donnelley.

4. This Agreement and any payment hereunder is contingent upon the Court's approval of a settlement. Each party also reserves the right to withdraw from this Agreement if any portion hereof is disapproved by this Court. In the event of such withdrawal, the Agreement shall be null and void.

5. The amounts paid in Settlement to Class Claimants are considered to be tendered as consideration for settlement and release of their claims for compensatory damages for physical and emotional pain, suffering and inconvenience arising out of the alleged racial harassment, race discrimination, retaliation and violation of their civil rights by Donnelley, and not for any claims for back pay or any form of lost wages. Each party shall be responsible for all taxes (if any) the legal incidence of which fall on that party and Plaintiffs' counsel shall issue IRS Form 1099 MISC as "other income" respecting such sums for each Plaintiff when the amount is determined and paid.

6. Donnelley agrees to pay the costs and fees of the mediator used by the parties in connection with the negotiation of this Settlement.

7. By entering into this Settlement Agreement, Donnelley does not admit any liability or wrongdoing and expressly denies the same; it is expressly understood and agreed that this Settlement Agreement is being entered into by the parties solely for the purpose of avoiding the costs and disruption on ongoing litigation and to settle all outstanding claims. Nothing in this Agreement is to be taken as an admission on the part of the Plaintiffs that their allegations were incorrect or untruthful. Neither this Agreement nor any order approving this Agreement shall constitute an adjudication by this Court on the merits of the allegations of Plaintiffs. This

Agreement, each of its provisions, its execution and its implementation shall not in any respect be construed or be deemed admissible in any arbitration or legal proceedings as evidence of an admission by Donnelley of (a) liability to any person, (b) any unlawful employment policy or practice or of any pattern or practice of resistance to the full enjoyment of rights secured under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) et seq., 42 U.S.C. §1981, the United States Constitution, or any other federal, state or local law, regulation.

D. No Re-Employment

1. No claimant terminated by Donnelley as of the date of this Agreement shall seek re-employment by the Company at its corporate headquarters or at any plant, facility or division owned by or related to the Company unless solicited by Donnelley, and if re-employment is sought, any such claimant may be rejected without legal recourse or liability or challenge of any kind whatsoever under any statute, ordinance or the common law.

E. Publicity

1. Each of Donnelley and Plaintiffs' counsel may issue simultaneously a press release announcing the settlement. Each party will provide the other and the Court an advance copy of its press release. The releases shall be neutral in tone and content and the Court shall review and approve the releases for conformance with this objective. In responding to any inquiry of the media, the parties and anyone acting on their behalf, will be limited to confirming that a settlement has been reached and that the settlement prohibits further discussion of its terms or the underlying disputes or actions. Neither Donnelley nor any Plaintiff or Class member nor anyone acting on their behalf shall otherwise publish, publicize, disseminate, communicate or cause to be published, publicized, disseminated or communicated, to any member of the media, directly or indirectly, information concerning the disputes involved herein, the claims asserted in

this action, the fact, terms or substance of the Settlement Agreement, provided that Donnelley may respond to investor and analyst inquiries, and otherwise as required by law.

2. The parties acknowledge that a breach of the publicity provisions set forth in this Paragraph E.1. will cause great damage and injury to both Donnelley and the Plaintiffs and that these provisions provide a material element of consideration for and inducement to enter into the Settlement Agreement. Accordingly, it is expressly agreed and understood that should Defendant or any Plaintiff or Class member breach these provisions, the other party, in addition to pursuing other remedies that it may have in law or equity, may obtain an injunction in a court of law to restrain the breaching party from further violating this Paragraph.

3. Within sixty (60) days of the entry of a Final Order herein, Plaintiffs and Plaintiffs' counsel shall make available to Donnelley for pick-up all documents, and copies thereof, produced by Donnelley in this litigation.

ALL PLAINTIFFS AND PLAINTIFF CLASS MEMBERS

R.R. DONNELLEY & SONS COMPANY

By: H. Candace Gorman
One of Their Attorneys

By: [Signature]

Its: Legal Counsel

Dated: Oct. 21, 2004

H. Candace Gorman
Law Offices of H. Candace Gorman
542 South Dearborn Street, Suite 1060
Chicago, Illinois 60605

Dated: Oct 21, 2004

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EDITH JONES, et al.,

Plaintiffs,

v.

R.R. DONNELLEY & SONS,

Defendant.

No. 96 C 7717

Judge Kennelly

NOTICE

This Notice is given pursuant to an Order of the United States District Court for the Northern District of Illinois and in accordance with Rule 23 of the Federal Rules of Civil Procedure.

Description of Litigation

1. The above case is a class action brought against R.R. Donnelley & Sons Company alleging, among other things, that African-Americans employed in the Chicago Manufacturing Division from November 25, 1992 through its closing in 1994 were subjected to racial discrimination during the shutdown of that division, racial discrimination in their status (temporary and casual), and subjected to a hostile environment on the basis of their race.

2. Donnelley denies that it has discriminated against any African-American employee and there have been no findings or adjudication by the Court on the merits of the allegations.

3. You have been identified as a member of the class covered by this lawsuit.

Description of Settlement

4. The parties have reached a settlement of the case and the Court has preliminarily approved the settlement by Order dated October 21st, 2004. As a class member, you may be eligible to receive money from the settlement fund. You also have the right to object to the settlement. Please read this notice carefully.

5. The proposed settlement, the details of which are contained in a settlement agreement signed by counsel for Plaintiffs and Defendant, provides for a Common Settlement Fund of \$15,000,000.00 to be distributed to eligible class members, an incentive award to eleven plaintiffs and class members who performed substantial service for the benefit of the class, and to the attorneys for their fees and costs for their work in this case and litigation expenses incurred by the Plaintiffs. The total amount of fees and costs to be awarded will be determined by the Court but will not exceed one-third of the total recovery.

6. Each African-American at Donnelley's Chicago Manufacturing Division who was employed from November 25, 1992 through its closing in 1994 and who has been identified as a class member may be eligible to receive a payment from the Common Settlement Fund in return for a waiver agreeing to release Donnelley from, and not to initiate any legal action against, Donnelley for any and all claims as provided in the attached Waiver and Release.

7. The Common Settlement Fund shall be distributed to eligible class members who timely sign and return releases, in accordance with the settlement schedule, as follows:

EXHIBIT B

Payment Amounts by Service Years for
 Plaintiffs in Jones v. RR Donnelley

Service Years	# of Individuals	Amount of payment	Individuals as % of Class
21+	232	\$30,000	39.4%
16-20	53	\$20,000	9.0%
11-15	44	\$15,000	7.5%
6-10	76	\$7,500	12.9%
2-5	137	\$3,170	23.3%
<2	47	\$1,500	8.0%
	589		100.0%

These amounts may be increased by interest earned on the Common Settlement Fund as provided in the Settlement Agreement.

The Settlement Hearing

8. Pursuant to an order of the District Court dated October 21st, 2004, a hearing will be held on November 30th, 2004 at 4:30pm in the courtroom of the Honorable Judge Kennelly. At the hearing, the Court will decide whether the proposed settlement is fair, reasonable and adequate and whether judgment should be entered thereon dismissing the action with prejudice. In addition, the Court will also decide what amount to award from the Settlement Fund for attorneys' fees and costs and the incentive award to the eleven Plaintiffs and class members who donated a substantial portion of their time for the benefit of the class.

9. Any member of the class may file an objection to the proposed settlement. Any such objection must be in writing and must identify the person objecting and state in detail the basis for the objection. The objection must be served on class counsel, H. Candace Gorman, 542 South Dearborn Street, Suite 1060, Chicago, Illinois 60605, no later than November 19, 2004.

This means that the objection must be *received* by counsel on or before November 19, 2004. Any member of the class who does not make his or her objection in accordance with the foregoing instruction shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness or adequacy of the proposed settlement agreement.

10. All class members who timely file objections above may address the Court at the hearing on November 30th, 2004, at 4:30 pm.

11. The Court may not amend the Settlement Agreement; it may only approve or disapprove the Settlement Agreement as written. Should the Settlement Agreement not be approved by the Court, no monies will be distributed to any class member.

12. If the Settlement Agreement is approved, the Settlement will bar and stop you from filing any and all individual claims which have been or could have been brought in the class action for race discrimination under any federal law, regulation or order.

Return of Acknowledgement and Release

13. In order to participate in the settlement, you must also complete the attached Waiver and Release and return it to class counsel, H. Candace Gorman, 542 South Dearborn Street, Suite 1060, Chicago, Illinois 60605, no later than **November 30th, 2004**. This means that it must be received on or before that date. Failure to sign and return this release prior to November 30th, 2004 may result in your failure to receive any payment from the Settlement Fund.

14. Should the settlement not be approved by the Court, the Releases signed by class members are null and void.

EXHIBIT B

Miscellaneous

15. Should you have any questions concerning this settlement, you may contact class counsel either in writing at the above address or by telephone at (312) 427-2313 or you may also consult your own attorney. A copy of the Settlement Agreement and all other documents relating to the Court's review of proposed settlement are on file at the Clerk's Office in the Federal Courthouse and you may inspect those documents in the Clerk's Office.

16. Please do not call or write the Judge or the Clerk of the Court concerning this litigation.

APPROVED:

Judge
United States District Judge

Date: October , 2004

EXHIBIT C

SETTLEMENT AND RELEASE

I, _____, agree to dismiss my claims against Donnelley in the actions entitled *Edith Jones, et al. v. R.R. Donnelley & Sons*, Civil Action No. 96 C 7717, in return for the settlement amount of \$ _____ and in consideration of the settlement, for myself, my heirs, executors, administrators, successors and assigns, hereby release and forever discharge Donnelley, its predecessors and/or successors and assigns, shareholders, directors, employees, managers, officers, agents, and attorneys, past and present, from any and all manner of action, claim, suit, cause of action, debt, sum of money, contract, covenant, controversy, agreement, promise, damages, judgment, and demand whatsoever, in law or in equity, including, but not limited to any cause of action under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621, *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et. seq.*, 42 U.S.C. §1981, the Illinois Human Rights Act, or any other federal, state or local constitution, law, statute, ordinance, executive order, or regulation, or any common law cause of action whatsoever against Donnelley which I ever had or now have by reason of any matter, cause or thing whatsoever, and more particularly, but not exclusively, by reason of any claims arising from or related to my employment with Donnelley or my termination with Donnelley, if applicable, or any matter or thing done or said during the course or conduct of the instant litigation. Nothing in this release or in any Agreement signed on my behalf by my lawyer in this case releases my vested benefits (if any), my rights (if any) under any workers' compensation, occupational diseases, or similar law, my claims (if any) that by law cannot be released.

I acknowledge that I have entered into this Release voluntarily and that:

- a. I understand that I am dismissing my claims of discrimination against Donnelley;
- b. I understand that I am responsible for my own taxes;
- c. I understand that I am receiving consideration in addition to anything of value to which I am already entitled;
- d. I understand that I have the opportunity to consult with my attorney in connection with the negotiation and execution of the Release and have done so; and
- e. I agree that I have been given a reasonable period of time to consider the Release.

Dated: November __, 2004

Plaintiff

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EDITH JONES, et al.,

Plaintiffs,

v.

R.R. DONNELLEY & SONS,

Defendant.

No. 96 C 7717
Judge Kennelly

**JOINT STIPULATION FOR FINAL JUDGMENT AND ORDER
APPROVING SETTLEMENT AGREEMENT AND DISMISSING ACTION**

This matter comes before the Court on the parties' motion for an Order and judgment approving the Settlement Agreement dated October 21, 2004 and dismissing with prejudice all claims and actions in *Edith Jones, et al. v. R.R. Donnelley & Sons*, No. 98 C 4025. After reviewing the Agreement and other related materials submitted by the parties, at the fairness hearing held on November 30, 2004 regarding the Class Settlement, and having considered the fact that objections to the settlement were to be served in writing to Class counsel no later than November 19, 2004 and no objections were filed by or after that date, and otherwise being fully informed in the premises, the Court has determined that the Settlement should be approved as fair, reasonable and adequate. The Court hereby enters the following Final Judgment.

1. This Court has jurisdiction over the subject matter of these actions and over all parties to these actions, including all members of the Class, as defined as:

“All African-American present and former employees of Donnelley who worked at the Chicago Manufacturing Division at any time after November 25, 1992, and to whom Notice was sent pursuant to Court Order, who were (1) discharged during the shutdown of that division and were not transferred to another Donnelley division; (2) employed as non-regular employees (including temporary, casual, contract, contingent, task force, etc.);

and/or (3) subjected to racial harassment so pervasive as to create a hostile working environment (“the Class”).”

2. The Notice given to the members of the Class which sets forth the principal terms of the Settlement and other matters set forth herein, was the best notice practicable under the circumstances. The Notice provided due and adequate notice of these proceedings and of the matters set forth therein, including the settlement set forth in the Settlement Agreement and those notices fully satisfied the requirement of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

3. Class attorney H. Candace Gorman shall be awarded the amount of \$_____ for fair and reasonable attorneys’ fees and costs expenses incurred in the prosecution of the Class claims, such award to be paid from the Settlement Fund as specified in the Settlement Agreement.

4. The Court hereby approves the Class Settlement and finds that said settlement is, in all respects, fair, reasonable, and adequate to the class, and within the authority of the parties.

5. This Court hereby dismisses all claims and actions in *Jones* in their entirety with prejudice against all persons and entities in favor of the Defendant and without costs to any of the parties as against any other settling party, except as provided in the Settlement Agreement.

6. All persons who are members of the Class, are hereby barred and permanently enjoined from prosecuting, commencing, or continuing any claims, causes of action, damages and liabilities of any kind, nature, and character whatsoever in law, equity, or otherwise, known or unknown, suspected or unsuspected, that now exist, may exist, or heretofore existed, arising out of, related to, connected with, or based in whole or in part on the entire subject matter of the allegations in the Complaint.