

## FIRST AMENDED ATTACHMENT H

### NOTICE OF ENTRY OF CONSENT DECREE

On  [insert date] , a Consent Decree resolving a lawsuit between the United States and the State of New Jersey and the New Jersey Civil Service Commission (the “State”) was entered by the Court. **As a result, you may be eligible for back pay and/or a priority promotion as a police sergeant with a local jurisdiction that participates in New Jersey’s civil service system, with retroactive seniority.**

The Consent Decree settles a lawsuit filed by the United States in the United States District Court for the District of New Jersey. In the lawsuit, the United States alleges that the State has pursued policies and practices that discriminate against and deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and/or national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, the United States alleges that since 2000, the State’s (1) pass/fail use of a police sergeant written examination and (2) certification of police sergeant candidates in descending rank order based on a combination of candidates’ written examination scores and seniority credits have resulted in a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant in local jurisdictions participating in New Jersey’s civil service system. The United States further alleges that the State’s uses of the written examination have not been shown to be job related for the position of police sergeant and consistent with business necessity, as required by federal law.

The United States alleges only disparate impact discrimination. The United States does not allege that the State has intentionally discriminated against any person or group of persons.

The State denies that it has violated Title VII. However, in the interest of resolving this matter and to promote the purposes of Title VII, the United States and the State have voluntarily entered into a Consent Decree (“Decree”) settling the lawsuit.

The terms of the Decree include an agreement by the State that it will develop a new selection procedure for the screening and selection of candidates for promotion to police sergeant in local jurisdictions. The State also has agreed to provide \$1,000,000 in back pay to be distributed among African-American and Hispanic Claimants from specified jurisdictions who were determined to have been adversely affected by the State’s uses of the written examination. Per the Decree, “Claimant” refers to any African-American or Hispanic person from specified jurisdictions who has not been promoted to police sergeant and who (1) between 2000 and 2009, failed a police sergeant written exam where appointments from the eligible list resulted in a shortfall of his or her race or (2) between 2000 and 2008, passed a police sergeant written exam where appointments from the eligible list resulted in a shortfall of his or her race, but ranked below the lowest-ranking candidate appointed from that eligible list.

The State also has agreed to certify Claimants in specified jurisdictions for priority promotions over all other candidates subject to any reemployment lists until a minimum of, and no more than, 68 priority promotions have been made pursuant to the Decree. To be eligible for

a priority promotion, a Claimant must pass the new selection procedure for police sergeant as developed under the Decree. If promoted, these individuals would be awarded retroactive seniority based upon the median appointment date for candidates on the eligible list that would have included the Claimant or from which the Claimant would have been appointed. The State has also agreed to cease using current eligible lists in the jurisdictions listed in First Amended Attachment D in the First Amended Consent Decree where such continued use will result in an unlawful impact. For those jurisdictions, the State will provide all certification requests to the United States prior to certifying candidates. If the United States through its expert determines that the certification will not result in additional African-American or Hispanic victims, it will approve the certification, which the State may then issue.

**You are being sent this Notice because you have been preliminarily deemed eligible for back pay and/or priority promotion.**

If you believe you are entitled to relief and wish to request back pay, and consideration for priority promotion if indicated, you should fill out the Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form enclosed with this notice and return it by mail no later than  [insert date]  to:

State of New Jersey Settlement Team  
Employment Litigation Section  
U.S. Department of Justice  
Civil Rights Division  
Post Office Box 14400  
Washington, DC 20044-4400  
Telephone: 1-800-556-1950, select mailbox option **number 1**  
Website: <http://www.justice.gov/njcsc>

If you have any questions about how to submit a claim, or whether you may be eligible, 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 1-800-556-1950, select mailbox option number 1. If you do call this number, please leave your name, social security number, address and telephone number and a time when you can be reached. Your call will be returned as soon as possible.

**SUBMITTING THE CLAIM FORM BY  [insert date] , DOES NOT GUARANTEE THAT YOU ARE ENTITLED TO OR WILL RECEIVE ANY RELIEF. HOWEVER, IF YOU FAIL TO SUBMIT A CLAIM FORM BY  [insert date]  YOU MAY BE BARRED FROM OBTAINING RELIEF.**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	2:10-cv-00091-KSH-MAS
STATE OF NEW JERSEY AND	)	
NEW JERSEY CIVIL SERVICE	)	Hon. Katharine S. Hayden
COMMISSION,	)	
	)	
Defendants.	)	
_____	)	

**INTEREST IN BACK PAY FORM**

I am interested in obtaining back pay under the Consent Decree agreed to by the United States and the State of New Jersey and New Jersey Civil Service Commission and entered by the Court in the above-captioned case. By signing and returning this form, I certify that:

- (1) I am either  African American or  Hispanic (check which applies).
- (2) I either  failed any one of the police sergeant written examinations given by the State between 2000 and 2009 or  passed any one of the police sergeant written examinations given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written examination (check which applies).
- (3) Listed below is each time that I took the police sergeant written examination between 2000 and 2009:

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

- (4) I have not been promoted to police sergeant.

Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Other name(s) used: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Jurisdiction: \_\_\_\_\_

I understand that in order to obtain back pay information regarding my background may be requested, and I may be required to provide such information. I also understand that to obtain any back pay I will be asked to sign a release of any and all claims that I may have that are covered by the lawsuit in this case.

Dated: \_\_\_\_\_

Name: \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	2:10-cv-00091-KSH-MAS
STATE OF NEW JERSEY AND	)	
NEW JERSEY CIVIL SERVICE	)	Hon. Katharine S. Hayden
COMMISSION,	)	
	)	
Defendants.	)	
_____	)	

**INTEREST IN BACK PAY AND/OR PRIORITY PROMOTION FORM**

I am interested in obtaining back pay under the Consent Decree agreed to by the United States and the State of New Jersey and New Jersey Civil Service Commission and entered by the Court in the above-captioned case. I also understand that, under the terms of the Consent Decree, I am eligible for priority promotion. By signing and returning this form, I certify that:

- (1) I am either \_\_\_ African American or \_\_\_ Hispanic (check which applies).
- (2) I either \_\_\_ failed any one of the police sergeant written examinations given by the State between 2000 and 2009 or \_\_\_ passed any one of the police sergeant written examinations given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written examination (check which applies).
- (3) Listed below is each time that I took the police sergeant written examination between 2000 and 2009:

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

\_\_\_\_\_ in \_\_\_\_\_  
(jurisdiction) (year)

(4) I have not been promoted to police sergeant.

Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Other name(s) used: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Jurisdiction: \_\_\_\_\_

I wish to be considered for the following forms of relief:

Back pay    Priority promotion    Both    None

I understand that, if I have indicated above that I wish to be considered for back pay, information regarding my background may be requested, and I may be required to provide such information. I understand that, if I have indicated above that I wish to be considered for priority promotion, I understand that I am not guaranteed a position as a police sergeant. I understand that my eligibility for priority promotion is subject to the number of available positions for priority promotion in the local jurisdiction in which I serve; my final score on the new selection procedure for police sergeant as developed under the Decree; and my satisfying any other lawful, objective appointment criteria in use by the State at that time. I also understand that to obtain back pay and/or to remain eligible for a priority promotion, I will be asked to sign a release of any and all claims that I may have that are covered by the lawsuit in this case.

Dated: \_\_\_\_\_

Name: \_\_\_\_\_