UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-14439-CIV-GRAHAM/LYNCH[1]

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

BAY STATE MILLING COMPANY,

Defendant.
_________________________________/

CASE NO. 13-14032-CIV-GRAHAM/LYNCH

GARY LEGORE,

Plaintiff,

v.

BAY STATE MILLING COMPANY,

Defendant.
_________________________________/

ORDER AND OMNIBUS REPORT AND RECOMMENDATIONS ON CROSS-MOTIONS REGARDING VACATING OR ENFORCING SETTLEMENT

In the evening of November 12, 2013, the parties reached a settlement at a court-ordered settlement conference before the Undersigned. The settlement terms were read into the record and each party agreed to its terms. Plaintiff Gary Legore ("Mr. Legore") has now moved to vacate the settlement. [Case No. 12-14439, ECF No. 78; Case No. 13-

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[1] United States Magistrate Judge Frank J. Lynch, Jr. is the magistrate judge assigned to these two related cases. These cases are before the Undersigned based on the District Court's specific referral to the Undersigned to conduct a settlement conference and for a report and recommendations regarding the issues arising from the settlement conference.

14032, ECF No. 87]. Defendant Bay State Milling Company ("Bay State") filed an omnibus response in opposition **and** an incorporated motion to enforce the settlement. [Case No. 13-14032, ECF Nos. 90; 91; 92]. Plaintiff the Equal Employment Opportunity Commission (the "EEOC") filed a response opposing Mr. Legore's motion to vacate. [Case No. 12-14439, ECF No. 85]. The EEOC also filed a response to Bay State's motion to enforce the settlement, which included a cross-motion to require Bay State to demonstrate compliance with the consent decree. [Case No. 12-14439, ECF No. 86]. Bay State opposes the EEOC's cross-motion. [Case No. 12-14439, ECF No. 88]. The District Court has referred these matters to me. [Case No. 12-14439, ECF No. 79; Case No. 13-14032, ECF No. 88].

The Undersigned has reviewed the parties' briefing, the transcript of the settlement conference, and the relevant portions of the record. For the reasons outlined below, the Undersigned respectfully recommends that the District Court **deny** Mr. Legore's motion to vacate the settlement, **grant in part and deny in part** Bay State's motion to enforce the settlement, and **deny** the EEOC's cross-motion. The Undersigned **also orders** that the transcript of the settlement conference be unsealed.

I. BACKGROUND

A. General Background

In response to Mr. Legore's allegation that he was not hired by Bay State because of his age, the EEOC filed suit against Bay State on December 10, 2012, alleging age

discrimination in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 623, *et seq.* [Case No. 12-14439, ECF No. 1]. Shortly thereafter, Mr. Legore retained private counsel and filed suit alleging a Florida state law based age discrimination claim. [Case No. 13-14032, ECF No. 1]. The EEOC and Mr. Legore's respective cases were assigned to District Judge Donald L. Graham. The cases were consolidated for discovery purposes. [Case No. 13-14032, ECF No. 13].

On November 5, 2013, the parties filed a joint motion for a consolidated settlement conference. [Case No. 13-14032, ECF No. 58]. The District Court granted the joint motion and referred the cases to the Undersigned for an omnibus settlement conference. [Case No. 12-14439, ECF No. 62; Case No. 13-14032, ECF No. 61]. A settlement conference was scheduled for November 12, 2013. [Case No. 12-14439, ECF No. 65; Case No. 13-14032, ECF No. 65].

B. The Settlement Conference

Slightly after 8:00 p.m., after 7 hours of negotiations, the parties finally reached a settlement. The Undersigned and the parties returned to the court where the following exchange regarding the settlement took place:

The Court: We are now on the record following a marathon mediation session; an omnibus joint mediation session in two cases involving first the Equal Employment Opportunity Commission versus Bay State Milling Company, which is case 12-CV-l4439-Judge Graham.

The second case is the case of Gary Legore versus Bay State Milling Company, case 13-CV-14032-Judge Graham.

We have, for all practical purposes, resolved the financial portion of both cases.

Many of the issues concerning the proposed consent decree have been agreed to, and there are some provisions which still need to be worked out, but because it is now 8:15, what we have decided to do is to dictate the terms of the settlement agreement into the record.

I will get each of you to confirm that this is the settlement agreement. The settlement agreement will be contingent upon a successful resolution of the consent decree which was requested by the Equal Opportunity Employment Commission.

So, first, I am going to just summarize the terms of the settlement, and then we will get everybody to agree. And if, in fact, things work out, as I am confidant [sic] that they will, and that there is a resolution of the remaining issues on the consent decree, then everything that we dictate into the record here today will in and of itself be a full, binding and enforceable settlement agreement.

So once everybody is on board with what I say and agree to it, that will be the settlement agreement, subject to successful agreement on the consent decree.

You are [sic] all are free later on to generate additional paperwork to memorialize the settlement agreement, but what we are going to do here today on the record will in and of itself be an enforceable settlement agreement.

The settlement agreement will be for both cases combined. The defendant will be paying $150,000 which will include attorneys' fees and costs. And, in addition, the defendant will be agreeing to a consent decree.

. . .

So, first, from the prospective [sic] of the defense, Bay State Milling Company, first, let me ask counsel, Mr. Santoro, is that a fair and accurate summary of the settlement agreement as you understand it?

Mr. Santoro: It is, Your Honor, contingent on the ability to agree to the consent decree and the terms of a mutual general release.

The Court: Fine. And let me also ask the representative of Bay State Milling Company, Mr. Rayola, is that, in fact, what you have agreed to this evening?

Mr. Rayola: Yes, Your Honor.

The Court: And on behalf of the insurance carrier, Ms. Mevers, you are on board and you agree to what we have just outlined in the record?

Ms. Mevers: Yes, Your Honor.

The Court: All right. Very well. And although I only need to hear normally from one lawyer per side, not to leave you out, Ms. Schwartz, since you did a lot of hard work in this case, is this, in fact, the agreement from your perspective?

Ms. Schwartz: Yes, Your Honor.

The Court: All right. Very well. Now, from the individual plaintiff's perspective, **Mr. Legore, is this, in fact, what you have agreed to?**

Mr. Legore:	**Yes, it is.**
The Court:	And, Mr. Schofield, as Mr. Legore's counsel, is this, in fact, what you have agreed to?
Mr. Schofield:	It is, Your Honor. Thank you.
The Court:	Very well. And from the perspective of the EEOC, first let me hear from Ms. Golson. Is this, in fact, as counsel what you have agreed to?
Ms. Golson:	Yes. It is what we have agreed to.
The Court:	And as a representative of the EEOC. Ms. McCoy, is this, in fact, what you have agreed to?
Ms. McCoy:	Yes, Your Honor

[Case No. 12-14439, ECF No. 77, pp. 9-11 (emphasis added); Case No. 13-14032, ECF No. 86, pp. 9-11 (emphasis added)].

Thus, at the end of the marathon settlement conference the settlement was clear and unambiguous: Bay State would pay Mr. Legore $150,000, inclusive of attorney's fees and costs, to settle **both lawsuits**. The only contingency was Bay State and EEOC's agreement to the terms of a consent decree. As will be explained, the efforts by the parties and their counsel to implement this straightforward settlement was anything but clear.

C. Post-Settlement Conference Developments

The post-settlement conference developments are numerous and have helped muddy the record in these cases. The Undersigned will attempt to set them out in as cohesive and logical fashion as possible.

1. *Mr. Legore's Ex Parte "Buyer's Remorse" Emails to the Undersigned*

Three days after the November 12, 2013 settlement conference, Mr. Legore sent *ex parte* emails to the Undersigned's e-file inbox. [Case No. 12-14439, ECF Nos. 67; 68; Case No. 13-14032, ECF Nos. 67; 68]. In these emails, Mr. Legore claimed that the settlement was not in his best interest because he did not know that his attorney had signed the joint motion for a settlement conference and that he was tired and fatigued when he agreed to the settlement. [*Id.*]. As the Undersigned has previously noted, "the substance of Mr. Legore's filings is what might be informally called 'buyer's remorse.'" [Case No. 12-14439, ECF No. 67, p. 3; Case No. 13-14032, ECF No. 67, p. 3]. All of Mr. Legore's complaints were not raised at the settlement conference, where he unequivocally agreed to the settlement.

2. *Mr. Legore and Bay State Sign a Settlement Agreement*

Notwithstanding his emails to the Undersigned, Mr. Legore and Bay State both signed a settlement agreement to settle *his private lawsuit*. [Case No. 12-14439, ECF No. 81, p. 4; Case No. 13-14032, ECF No. 90, p. 4]. According to counsel, under that settlement agreement (which was not provided to the court) Bay State would pay Mr.

Legore $150,000 in three payments of $50,000 in exchange for the settlement of *his private lawsuit.* According to counsel, that settlement agreement, however, makes no mention of the EEOC's consent decree. As will be seen shortly, the relevance of this final point cannot be understated.

3. *The Consent Decree is Resolved*

On November 22, 2013, the EEOC and Bay State submitted a joint motion for approval of a consent decree. [Case No. 12-14439, ECF No. 69]. As noted, an agreement to a consent decree was the only contingency of the $150,000 settlement. The District Court entered the party-proposed consent decree. [Case No. 12-14439, ECF No. 70].

Among other things, the consent decree provided that Bay State would pay Mr. Legore $80,185.66, in two payments of $40,092.83, to settle *the EEOC's lawsuit*. [*Id.* at pp. 4-5]. The party-drafted consent decree, however, neither mentioned Mr. Legore's private lawsuit nor the $150,000 settlement reached at the settlement conference. Stated another way, there is nothing in the consent decree that indicates that the $80,185.66 due under the consent decree was to be offset against the overall $150,000 settlement reached at the settlement conference.

4. *The January 22, 2014 Status Conference*

Bay State moved for a status conference to address certain issues that had arisen regarding the settlement. [Case No. 12-14439, ECF No. 72; Case No. 13-14032, ECF No. 77]. In sum, although Mr. Legore *signed* the settlement agreement he refused to sign a

W-9 form for tax purposes and refused to accept the check sent to him by Bay State. [Case No. 13-14032, ECF No. 78]. In addition, Mr. Legore's counsel had moved to withdraw because of their differences regarding the settlement.

At the status conference, the Undersigned discussed a number of issues with the parties. First, was counsel's inability to properly memorialize the straightforward settlement reached at the settlement conference. On one hand, under the settlement agreement, Bay State was obligated to pay Mr. Legore with three $50,000 checks. [Case No. 12-14439, ECF No. 90, pp. 16-17; Case No. 13-14032, ECF No. 94, pp. 16-17]. On the other hand, under the consent decree, Bay State was required to pay Mr. Legore two payments of $40,092.83 for a total of $80,185.66. [*Id.* at pp. 6-12]. Incredibly, neither agreement mentioned the other. [*Id.* at pp. 18, 25-27]. As a consequence, Bay State was under the *assumption* that its three $50,000 payments to Mr. Legore satisfied its obligations under both the settlement agreement *and* the consent decree. [*Id.* at p. 27]. The EEOC *assumed* that Bay State would pay Mr. Legore the $80,185.66 in the consent decree in the specific manner set out in the consent decree and would pay the remaining $69,843.34 under some unspecified terms under the settlement agreement. [*Id.* at pp. 12-16].

Second, the Undersigned discussed the amount of the settlement. Notwithstanding the difference as to how Bay State's payments were to be made, the EEOC, Bay State's counsel and its representative, and Mr. Legore's counsel *all* agreed

that the total settlement amount was $150,000 – as announced at the settlement conference. [*Id.* at pp. 17, 20]. After hearing the discussion regarding the differences as to Bay State's payments, Mr. Legore took the position that he was entitled to $150,000 under the settlement agreement **plus** the $80,185.66 under the consent decree, for a total of $230,185.66. [*Id.* at pp. 17-18]. Despite his numerous "buyer's remorse" emails, this was the *first time* Mr. Legore had asserted that he was owed $230,185.66. [*Id.*].

At the conclusion of the hearing, the Undersigned granted the parties' *ore tenus* motion to seal the transcript of the settlement conference. [Case No. 12-14439, ECF No. 76; 13-14032, ECF No. 83]. The Undersigned also granted Mr. Legore's counsel's motion to withdraw and gave Mr. Legore 30 days to retain new counsel and for his new counsel to explain Mr. Legore's position regarding the total amount of the settlement, i.e., $150,000 versus $230,185.66. [Case No. 13-14032, ECF Nos. 81; 94, pp. 6-9, 21, 32]. Finally, the Undersigned noted that despite the parties' differences regarding the settlement no party had filed a motion to vacate or enforce the settlement. [Case No. 13-14032, ECF No. 94, pp. 21, 30].

D. The Instant Motions

1. *Mr. Legore's Motion to Vacate and Bay State's Motion to Enforce*

On March 5, 2014, Mr. Legore, proceeding *pro se,*[2] moved to vacate the settlement. [Case No. 12-14439, ECF No. 78; Case No. 13-14032, ECF No. 87]. In his motion, Mr. Legore reiterates his newfound claim that the settlement was for $230,185.66, composed of the $80,185.66 to resolve the EEOC's case and the $150,000 to resolve his private lawsuit. [*Id.*]. As such, Mr. Legore argues that no agreement was reached at the settlement conference, just confusion, and that the settlement should be vacated. [*Id.*].

Bay State opposes Mr. Legore's motion. [Case No. 12-14439, ECF No. 81; Case No. 13-14032, ECF No. 90]. Bay State notes that Mr. Legore agreed to the terms of the $150,000 settlement on the record and again when he signed the settlement agreement. [Case No. 12-14439, ECF No. 81, pp. 6-7; Case No. 13-14032, ECF No. 90, pp. 6-7]. As a result, Bay State contends that Mr. Legore cannot now repudiate the terms of the settlement. Accordingly, Bay State requests that the court deny Mr. Legore's motion and enforce the settlement by having Mr. Legore execute the W-9 form and awarding it attorney's fees. [Case No. 12-14439, ECF No. 81, p. 7; Case No. 13-14032, ECF No. 90, p. 7].

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[2] Since the filing of his motion, Mr. Legore has contacted the Undersigned's chambers on *numerous* occasions to advise the law clerk assigned to this case that he would be retaining counsel shortly. However, despite these representations, no new counsel has ever appeared on his behalf.

2. *The EEOC's Response to Mr. Legore's Motion to Vacate and Bay State's Motion to Enforce and the EEOC's Cross-Motion to Enforce the Consent Decree*

The EEOC agrees with Bay State that the total amount of the settlement was $150,000, not $230,185.66 and that Mr. Legore's motion should be denied. [Case No. 12-14439, ECF No. 85, pp. 3-5, 7]. The EEOC also argues that to the extent he is trying to do so, Mr. Legore does not have standing to move to vacate the consent decree. [*Id.* at pp. 5-7].

The EEOC, however, opposes Bay State's motion to enforce the settlement and filed a cross-motion to require Bay State to demonstrate compliance with the consent decree. [Case No. 12-14439, ECF No. 86]. In particular, the EEOC opposes Bay State's request to enforce the signed settlement agreement because Bay State had not set out what particular terms it was trying to enforce. [*Id.* at p. 4]. The EEOC also opposes Bay State's request for attorney's fees because Bay State did not state the legal basis for its entitlement to attorney's fees. [*Id.* at p. 4]. As for its cross-motion, the EEOC seeks an evidentiary hearing so that Bay State can demonstrate it is complying with the consent decree. [*Id.* at pp. 4-5].

Bay State opposes the EEOC's cross motion. [Case No. 12-14439, ECF No. 88]. Bay State characterizes the EEOC's cross-motion as an improper attempt to discover the terms of the signed settlement agreement between Mr. Legore and Bay State. [*Id.* at pp. 3-4]. Bay State also points out that the only term of the consent decree it has not

complied with is the payment terms and that this is because Mr. Legore has refused to sign a W-9 form, which he is legally required to do. [*Id.* at pp. 4-5].

II. DISCUSSION

A. The Transcript of the Settlement Conference is Unsealed

The Undersigned granted the parties' *ore tenus* request to seal the transcript of the settlement conference because it contained the financial terms of Mr. Legore's settlement. [Case No. 12-14439, ECF No. 76; 13-14032, ECF No. 83]. However, now that the very validity of the settlement is directly before the court for resolution, the Undersigned has reconsidered that decision.

"[T]he common-law right of access to judicial proceedings, an essential component of our system of justice, is instrumental in securing the integrity of the process." *Chi. Tribune Co. v. Bridgestone/Firestone, Inc.*, 263 F.3d 1304, 1311 (11th Cir. 2001) (internal citations omitted). "Once a matter is brought before a court for resolution, it is no longer solely the parties' case, but also the public's case." *Brown v. Advantage Eng'g., Inc.*, 960 F.2d 1013, 1016 (11th Cir. 1992). "Absent a showing of extraordinary circumstances . . . the court file must remain accessible to the public." *Brown*, 960 F.2d at 1016 (reversing district court and ordering unsealing of settlement records which were sealed under court-monitored settlement).

Here, the Undersigned does not find any extraordinary circumstances that would warrant the continued sealing of the settlement conference transcript. *Medina v.*

United Christian Evangelistic Ass'n of Fla., LLC, No. 08-22111-CIV, 2010 WL 5392661 (S.D. Fla. Dec. 21, 2010) (declining to seal portions of transcript where parties agreed to settle and defendant company disclosed its finances). To the contrary, the Undersigned finds that "[p]ublic confidence [in our judicial system] cannot long be maintained where important judicial decisions are made behind closed doors and then announced in conclusive terms to the public, with the record supporting the court's decision sealed from public view." *United States v. Cianfrani,* 573 F.2d 835, 851 (3d Cir. 1978). Accordingly, the Clerk of the Court is ordered to **unseal** the settlement conference transcript: Case No. 12-14439, ECF No. 77; Case No. 13-14032, ECF No. 86.

B. Mr. Legore's Motion to Vacate the Settlement Should be Denied and Bay State's Motion to Enforce the Settlement Should be Granted in Part and Denied in Part

Because they are intertwined, the Undersigned will examine Bay State's motion to enforce the settlement and Mr. Legore's motion to vacate the settlement together. But before proceeding, the Undersigned makes the following point of clarification. When analyzing whether the settlement should be vacated or enforced, the Undersigned is referring to the settlement announced on the record at the settlement conference. The Undersigned is not referring to the settlement agreement between Mr. Legore and Bay State, as that agreement is not before the court.

1. *Applicable Legal Standard*

Because the settlement was reached in Florida, the construction and enforcement of the settlement are governed by principles of Florida's general contract law. *Schwartz v. Florida Bd. of Regents,* 807 F.2d 901, 905-06 (11th Cir. 1987); *see also Resnick v. Uccello Immobilien GMBH, Inc.,* 227 F.3d 1347 (11th Cir. 2000) (settlement agreement resolving federal claims still interpreted under Florida law).

Florida applies an "objective test" to determine whether a contract, or a settlement, may be duly enforced. *See Robbie v. City of Miami,* 469 So. 2d 1384, 1385 (Fla. 1985) (noting that the test considers not whether there was an "agreement of two minds in one intention, but on the agreement of two sets of external signs—not on the parties having meant the same thing but on their having said the same"). "To compel enforcement of a settlement agreement, its terms must be sufficiently specific and mutually agreed upon as to every essential element." *Spiegel v. H. Allen Homes, Inc.,* 834 So. 2d 295, 297 (Fla. 4th DCA 2003). Oral settlements are enforceable and the execution of a settlement agreement is not a condition precedent to a settlement, but merely a procedural formality. *See Allapattah Servs., Inc. v. Exxon Corp.*, No. 05-21338-CIV, 2007 WL 7756735, at *2 (S.D. Fla. Sept. 26, 2007); *Boyko v. Ilardi,* 613 So. 2d 103, 104 (Fla. 3d DCA 1996).

2. *Discussion*

1. The Settlement Should Not be Vacated and Should be Enforced

At its core, the terms of the settlement were as follows:

> The settlement agreement will be for both cases combined. The defendant will be paying $150,000 which will include attorneys' fees and costs. And, in addition, the defendant will be agreeing to a consent decree.

[Case No. 12-14439, ECF No. 77, pp. 10; Case No. 13-14032, ECF No. 86, p. 10]. All the parties (including Mr. Legore) and their counsel expressed their understanding and agreement to the announced settlement. [Case No. 12-14439, ECF No. 77, pp. 9-11; Case No. 13-14032, ECF No. 86, pp. 9-11]. As a result, the Undersigned finds that the settlement is capable of being enforced because its terms are sufficiently specific and all the parties mutually agreed to the terms.

In his instant motion and in his *ex parte* emails to the Undersigned, Mr. Legore raises two reasons why the settlement should be vacated: fatigue and confusion. The Undersigned does not find either reason persuasive.

First, in his emails, Mr. Legore alleged that he was tired and fatigued because of his long travel and the length of the settlement conference. As to the length of the settlement conference, all the parties were operating under the same conditions – not just Mr. Legore. And even when combining the length of the settlement conference with Mr. Legore's travel to attend the settlement conference, Mr. Legore's fatigue argument is simply not legally sufficient to justify vacating the settlement. *Devoux v. Wise*, No.

3:12-CV-540-J-34JBT, 2014 WL 1457520, at *5 n. 3 (M.D. Fla. Apr. 15, 2014) (rejecting plaintiff's claim that he was under fatigue and duress when he agreed to settlement because of long trip from South Carolina to Jacksonville to attend mediation).

Second, in his motion, Mr. Legore argues that the settlement should be vacated because there was confusion as to whether the settlement was for $230,185.66 or $150,000. Contrary to Mr. Legore's assertion, there was, and is, no confusion regarding the settlement amount. The record is clear that the settlement is for $150,000 and that Mr. Legore agreed to that amount. Moreover, Mr. Legore's assertion was belied at the January 22, 2014 status conference when the EEOC, Bay State, and Mr. Legore's former counsel all stated that the settlement was for $150,000, not $230,185.66. As such, Mr. Legore's assertion that the settlement was for $230,185.66 is an after-the-fact attempt to seize on counsels' inability to coordinate the written settlement agreement and the consent decree. This leads to the Undersigned's final point regarding Mr. Legore's motion to vacate the settlement.

The real gravamen of Mr. Legore's motion is that he is unhappy with the settlement after agreeing to it. But that unhappiness is not a sufficient basis to vacate the settlement. *See Murchison v. Grand Cypress Hotel Corp.*, 13 F.3d 1483, 1487 (11th Cir. 1994) (denying motion to vacate settlement reached on the record and noting "[w]e cannot allow a litigant to attack the integrity of the settlement process by attempting to

recharacterize the focus of his litigation after he decides he is unhappy with the settlement.").

2. How the Settlement Should be Enforced

Having found that the settlement should be enforced, the Undersigned next turns to what relief should be granted in enforcing the settlement. In that regard, Bay State wants the court to enforce the settlement by having Mr. Legore execute a W-9 form and by awarding it attorney's fees. [Case No. 12-14439, ECF No. 81, p. 7; Case No. 13-14032, ECF No. 90, p. 7].

As to the former request, "[f]ederal tax regulations require that a company issue a 1099 form with every settlement payment over $600." *Gray v. Collection Info. Bureau, Inc.*, 823 F. Supp. 2d 1296, 1297 (S.D. Fla. 2011) (Jordan, J.) (citing 26 C.F.R. § 1.6041–1(f)). "To issue a 1099 form," Bay State needs Mr. Legore's taxpayer identification number ("TIN") or social security number. *Id*. Accordingly, Bay State's request for Mr. Legore to execute a W-9 form and, therefore, provide his TIN or social security number should be granted. *See McCormick v. Brzezinski*, No. 08-10075, 2010 WL 1463176, at *3, *7-8 (E.D. Mich. Apr. 13, 2010) (denying plaintiff's motion to vacate settlement reached on the record based on allegations of duress and misrepresentation and requiring plaintiff to provide her social security number to defendant).

As to Bay State's request for attorney's fees, Bay State did not provide any legal basis for this request. Accordingly, the Undersigned recommends that this request be denied.

C. **The EEOC's Cross-Motion Should be Denied**

In its cross-motion, the EEOC seeks an evidentiary hearing so that Bay State can demonstrate compliance with the consent decree. [Case No. 12-14439, ECF No. 86, at pp. 4-5]. This request should be denied.

In its motion, the EEOC identified only one provision that Bay State has failed to comply with: the payment provision. The reason for Bay State's non-compliance is not because it is unwilling or unable to pay. To the contrary, Bay State previously sent some checks to Mr. Legore's former counsel. Rather it is Mr. Legore's refusal to provide his social security number – as he is legally required to do – that has prevented Bay State from paying. If the District Court adopts the Undersigned's recommendation that Mr. Legore provide that information, then Bay State's non-compliance with this provision of the consent decree will become moot. [3]

III. CONCLUSION

For the reasons stated above, the Undersigned **orders** that the transcript of the settlement be unsealed by the Clerk of the Court. The Undersigned **respectfully recommends** to the District Court that it:

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[3] Of course, if Bay State refuses or delays in paying Mr. Legore, then the EEOC or Mr. Legore may file a motion with the court.

(1) **deny** Mr. Legore's Motion to Vacate the Settlement;

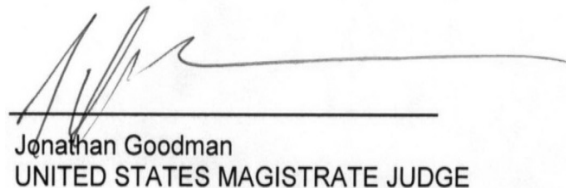
(2) **grant in part and deny in part** Bay State's motion to Enforce the Settlement by: (i) ordering Mr. Legore to execute a W-9 form; (ii) requiring Bay State to, as soon as practicable, pay Mr. Legore after he provides Bay State with his W-9 form; and (iii) denying Bay State's request for attorney's fees; and

(3) **deny** the EEOC's cross-motion.

IV. OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1) and Local Magistrate Rule 4(b), the parties have **14** days from the date of this Report and Recommendations to serve and file written objections, if any, with the District Court. Each party may file a response to the other party's objection within **7** days of the objection. Failure to timely file objections shall bar any party from a de novo determination by the District Court of an issue covered in this Report and bar the party from attacking on appeal the factual findings contained herein. *LoConte v. Dugger*, 847 F.2d 745, 749-50 (11th Cir.), *cert. denied*, 488 U.S. 958 (1988).

RESPECTFULLY RECOMMENDED, in Chambers, in Miami, Florida, July 25, 2014.



Jonathan Goodman
UNITED STATES MAGISTRATE JUDGE

<u>Copies furnished to</u>:
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