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CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA)
EX REL NIRA SCHWARTZ,)

CV96-3065 RSWL (RMCx)

Plaintiff,)

ORDER

v.)

TRW, INC. an Ohio)
corporation, and BOEING)
N. AMERICA INC., a)
Delaware corporation,)

Defendants.)

DOCKETED ON CM
FEB 10 2004
BY 002

On February 9, 2004, this Court heard Plaintiff's Motion for Partial Summary Judgment and Defendant TRW (now known as Northrop Grumman Space and Mission Systems Corporation)'s Motion for Partial Summary Judgment. Both parties requested **judicial notice** and the Court **GRANTS** all such requests. Therefore, the Court has considered all papers and argument submitted.

As to Plaintiff's motion for Partial Summary Judgment

525

1 on three affirmative defenses, a genuine issue of material
2 fact exists as to all three affirmative defenses: unclean
3 hands, after-acquired evidence, and fraud. Therefore, this
4 Court **DENIES** Plaintiff's motion.

5 As to Defendant's motion, a genuine issue of material
6 fact exists as to whether or not TRW would have terminated
7 Plaintiff at any point before it did so. Thus, the Court
8 **DENIES** summary judgment on the after-acquired evidence
9 issue.

10 As to the balance of Defendant's motion, Plaintiff
11 herself admits that in substantially similar employment
12 she earned \$47,582 from Twentieth Century Plastics and
13 \$1.6 million from the United States Government (whether
14 or not she was paid). Plaintiff, therefore, admits that
15 she did or with reasonable efforts could have earned
16 that amount since her termination. Plaintiff could not
17 have done this work if she were employed by TRW. Thus,
18 no genuine issue of material fact exists as to whether
19 or not Plaintiff earned or could have earned \$1,647,582
20 after TRW terminated her. Defendant TRW is entitled to
21 judgment as a matter of law on this issue

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1 and any award Plaintiff receives for back pay at trial
2 should be reduced by \$1,647,582. Thus, the Court **GRANTS**
3 in part and **DENIES** in part Defendant's motion.

4 **IT IS SO ORDERED.**

5 DATED: 2-9-04

RONALD S.W. LEW

RONALD S.W. LEW
United States District Judge

8 (Order/SchwartzPartialSJ.wpd/z)

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