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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 PAUL CLARK,

9 Plaintiff,

10 v.

11 GOLDEN SPECIALTY, INC. and
12 SCOTT SWIGGARD,

Defendants.

C14-1412 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's Motion to Amend the Judgment to Order Reinstatement, docket
16 no. 144, is DENIED. The Court declines to modify the Judgment to include
17 reinstatement. First, the evidence before the Court makes clear that reinstatement would
18 be infeasible because of the significant friction created by the parties' animosity towards
19 each other. *See Little v. Technical Specialty Products, LLC*, 940 F. Supp. 2d 460, 480
20 (E.D. Tex. April 15, 2013) (noting that "future wages are recoverable as an alternative to
21 reinstatement where reinstatement is not feasible"); *see also Avitia v. Metropolitan Club*
22 *of Chicago, Inc.*, 49 F.3d 1219, 1230-31 (7th Cir. 1995). Second, the jury was instructed
23 that in calculating its award of economic damages it should consider the reasonable value
of earnings lost, if any, up to the present time (*i.e.* back pay) and with reasonable
probability, to be experienced in the future (*i.e.* front pay). *See Jury Instructions*, docket
no. 130 at 19. Consistent with plaintiff's proposed special verdict form, docket no. 109
at 7, the Court's verdict form provided a single blank for the jury to fill in its award of
economic damages without breaking out the awards for front and back pay. *See Jury*
Verdict, docket no. 136 at 2. As a result, the jury's calculation of plaintiff's economic
damages encompasses any front pay and any back pay the jury believed was appropriate,

1 and leaves the Court no way of separating out the front pay award to grant reinstatement
2 as an alternative. Plaintiff did not object or except to either the Court's instructions or its
3 verdict form and therefore, has effectively elected front pay in lieu of reinstatement.
4 Finally, reinstatement is an equitable claim which the Court declines to order under the
5 circumstances of this case.

6 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
7 record.

8 Dated this 15th day of December, 2016.

9 William M. McCool
10 Clerk

11 s/Karen Dews
12 Deputy Clerk