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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT COLUMBUS**

Equal Employment Opportunity Commission,	:	Case No. 2:06CV233
	:	
Plaintiff,	:	Judge Marbley
	:	Magistrate Kemp
-and-	:	
	:	
Monica P. Ways,	:	
35 Inverness Court	:	
Springboro, Ohio 45066	:	
	:	
Plaintiff-Intervener,	:	
	:	
-vs-	:	Plaintiff-Intervener's Verified
	:	Complaint for Money Damages
	:	With Jury Demand
	:	
Honda of America Mfg, Inc.,	:	
24000 Honda Parkway	:	
Marysville, Ohio 43040-9251	:	
	:	
Defendant.	:	
	:	
For Service of Process Only on Honda of America Mfg., Inc.:	:	
	:	
Statutory Agent Corporation	:	
52 East Gay Street	:	
Columbus, Ohio 43215	:	
	:	



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PRELIMINARY STATEMENT

1. Plaintiff-Intervener Monica Ways brings this action to intervene so as to obtain full and complete relief and to redress the unlawful conduct and/or employment practices described herein.

2. Plaintiff-Intervener seeks intervention in this action to recover damages against Defendant for state law claims, inclusive of federal claims, for race and gender discrimination, disparate impact discrimination, retaliation, and creation of a hostile work environment in violation of Title VII of the 1964 Civil Rights Act, as amended, 42 U.S.C. §2000e-5 ("Title VII"), 42 U.S.C. §1981, and Ohio Revised Code §§4112.02 and 4112.99. Plaintiff-Intervener also asserts the various state law claims for Defendant's violation of Ohio law and public policy.
3. This action seeks monetary, declaratory, injunctive, punitive, and other equitable relief from discrimination and retaliation in employment and wrongful discharge against Plaintiff-Intervener on account of her race and gender and in violation of Title VII, 42 U.S.C. §1981, O.R.C. §§4112.02 and 4112.99, and Ohio law and public policy.

JURISDICTION AND VENUE

4. This action is instituted and authorized by §706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-et seq. and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981(a).
5. Jurisdiction of this Court to hear and determine the claims is based on 28 U.S.C. §1331 (Federal Question) and 28 U.S.C. §1343 (Civil Rights). The Court has supplemental jurisdiction over Plaintiff-Intervener's state law claims pursuant to 28 U.S.C. §1367(a).
6. A declaratory judgment is sought pursuant to 28 U.S.C. §§2201 and 2202. A declaration on the state law claims is sought pursuant to O.R.C. §2721.02.
7. Intervention is proper, as a matter of right, pursuant to Rule 24(a)(1), Federal Rules of Civil Procedure and Title VII, 42 U.S.C. §2000e-5(f)(1).
8. Venue is proper in this Court as all the acts complained of herein occurred in the State of Ohio, within the jurisdiction of this Court.

PARTIES

Plaintiff and Plaintiff-Intervener

9. Plaintiff EEOC is an agency of the United States authorized to bring a civil action under Title VII including §706(f)(1) and §707 of the statute. 42 U.S.C. §2000e-5(f)(1) and 6.



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10. Plaintiff-Intervener Monica P. Ways ("Plaintiff-Intervener" or "Ms. Ways") is an African-American female citizen of the United States and a resident of the state of Ohio.
11. Ms. Ways was employed at Honda of America Mfg., Inc. ("HAM") from February 3, 2003 through the termination of her employment on April 19, 2004.
12. Throughout her employment and at the time of her termination, Ms. Ways was employed as the Senior Manager for Diversity Management and Ethics at HAM in Marysville, Ohio.
13. After being terminated from her employment by Defendant HAM, Plaintiff-Intervener filed a timely charge of discrimination with the EEOC.
14. The EEOC investigated Plaintiff-Intervener's charges.
15. The EEOC filed this action based on the charge of discrimination filed by Plaintiff-Intervener.
16. Intervention is being timely sought and Plaintiff-Intervener, as an aggrieved person, has the right to intervene pursuant to Rule 24(a)(1), Federal Rule of Civil Procedure and §2000e-5 of Title VII.

Defendant

17. At all times material herein, Defendant HAM was and is an employer under 42 U.S.C. §2000(e)(b) engaged in an industry affecting commerce within the meaning of 42 U.S.C. §2000(e)(h), and capable of being sued in this Court.

FACTS

18. On February 3, 2003, Ms. Ways began her employment as the Senior Manager for Diversity Management and Ethics at HAM's corporate office location in Marysville, Ohio.
19. Honda manufactures automobiles, motorcycles, personal watercraft, and power products in the United States and sells them to American Honda, who in turn sells them to dealers.
20. HAM manufactures engines at the Anna Engine Plant, automobiles at the Marysville Automobile Plant and the East Liberty Plant, and motorcycles at the Marysville Motorcycle Plant.



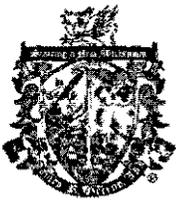
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21. In her role as Senior Manager for Diversity Management and Ethics, Ms. Ways was recruited for the primary function of developing strategies geared toward making HAM a more diverse, inclusive, and ethical organization.
22. Ms. Ways' duties included supervising the Equal Employment Opportunity ("EEO") function, which was to audit personnel actions and processes, report diversity matters to federal agencies, and ensure that all HAM employees and job applicants were given equal opportunity for consideration in hiring, promotion, and development.
23. Ms. Ways was also responsible for managing a business team that consisted of Corporate Compliance and Ethics, Government Contracting and Equal Employment Opportunity as well as matrix responsibility for Supplier (Procurement) Diversity, and Staffing.
24. Over the course of her fourteen months of employment at HAM, Ms. Ways diligently performed her duties despite the challenges she faced daily at HAM.
25. On her own initiative, in an effort to fully understand her role and function at HAM, and consistent with Honda's practice and policies of "going to the spot," Ms. Ways worked the production lines at the Anna Engine, East Liberty, and Marysville Auto Plants and the Marysville Motorcycle Plant. During these visits, Ms. Ways talked with the minority, female, as well as majority and male associates, to find out how they perceived diversity at HAM.
26. To better understand Honda's corporate structure and American business, Ms. Ways also visited American Honda sales operations in Torrence, California, Honda Manufacturing of Alabama ("HMA") in Lincoln, Alabama, and Honda South Carolina ("HSC") in Timmonsville, South Carolina.
27. Ms. Ways was deeply motivated to understand all aspects of the company so she could better contribute to HAM's success by providing leadership to help the company become more diverse, inclusive, and ethical.
28. At all times during her employment at HAM, Ms. Ways was under the supervision of Rick Schostek, who held the positions of Vice President of Support Services and General Counsel as well as Compliance Officer, Secretary to the HAM Board of Directors, and Acting Chief Financial Officer.
29. For approximately the first nine months of her employment at HAM, Ms. Ways observed that Mr. Schostek seemed engaged in and receptive of her ideas and approach for increasing diversity at HAM.



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30. From the beginning of her employment at HAM and for the next three to six months, Mr. Schostek had regular meetings with Ms. Ways, which later became group meetings that Mr. Schostek had with all senior managers reporting to him.
31. However, Mr. Schostek's attitude toward Ms. Ways changed after Ms. Ways began questioning various HAM employment and other business practices that were contrary to the diversity efforts she and her business team were attempting to implement.
32. Ms. Ways raised concerns with Mr. Schostek regarding HAM's minimalist approach and/or lack of compliance with federal guidelines for EEO.
33. Ms. Ways also pointed out that HAM was not acting in compliance consistent with the requirements for federal subcontractors as depicted by the Office of Federal Contract Compliance Program ("OFCCP").
34. Whenever she observed or became aware of conduct she considered being discriminatory, Ms. Ways did not hesitate to express her opposition.
35. Over the course of her employment at HAM, Ms. Ways became increasingly aware of the denial of equal job consideration, lack of job promotion, lack of job posting, and compliance issues particularly in areas of under-utilization.
36. When Ms. Ways became aware of qualified minority candidates who were not given full consideration during the hiring process, she advocated for them. For example, Ms. Ways intervened on behalf of a qualified African-American engineering applicant who was denied a position at HAM.
37. During HAM's Special Voluntary Retirement Opportunity ("SVRO"), Ms. Ways became aware that a committee of HAM executives and managers were meeting to hand pick employees to backfill positions vacated by the SVRO, also in direct violation of HAM's EEO policy. Ms. Ways communicated to Mr. Schostek the potential discrimination that could occur in this situation.
38. With regard to filling the positions vacated as result of the SVRO, Ms. Ways had discovered that HAM did not post all of the job openings and did not give equal or fair consideration to minority candidates. Specifically, Ms. Ways became aware of several key management positions available at HAM that were not posted, but were instead given to select employees in direct violation of HAM's EEO policy.



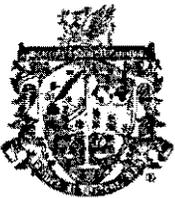
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39. Despite compiling the necessary research and supportive data for the various changes she and her business team tried to implement at HAM during her employment, Ms. Ways' EEO related proposals were repeatedly and systematically delayed and stalled by Mr. Schostek, Timothy Garrett, the Vice President of Administration at HAM in Marysville, Ohio, and Lynn Dennison, currently Assistant Vice President and General Counsel at HAM.
40. Shortly after Ms. Ways and her business team began preparing HAM's Affirmative Action Plans ("AAPs"), Ms. Ways had several meetings with Mr. Schostek, and some with Mr. Garrett.
41. The purpose of these meetings was for Ms. Ways to express her concerns that Mr. Schostek and Mr. Garrett, along with Ms. Dennison, were intentionally frustrating Ms. Ways' efforts to create a more diverse, inclusive, and ethical environment at HAM.
42. Ms. Ways also communicated her frustrations to Mr. Koki Hirashima ("Mr. Hirashima"), the President and Chief Executive Officer of HAM, and Mr. Tad Nagouchi ("Mr. Nagouchi"), HAM Senior Vice President for Support Services, and requested their assistance and support.
43. Mr. Hirashima had previously advised Ms. Ways that part of her and her business team's responsibilities were to serve as a "check and audit" function for HAM.
44. Mr. Hirashima also informed Ms. Ways that he knew that he was not always told the full truth about what was occurring at HAM.
45. While developing HAM's AAPs, Ms. Ways and her business team worked with HAM's outside counsel, Vorys, Sater, Seymour, & Pease ("VSSP"), LLP.
46. In their attempts to comply with federal guidelines and develop AAPs that were affirmative and truthful, Ms. Ways and her business team encountered tremendous resistance from Mr. Schostek, Mr. Garrett, Ms. Dennison, and each of their support staff, along with HAM's outside counsel.
47. Mr. Schostek, Mr. Garrett, Ms. Dennison, and each of their support staff all attempted to thwart Ms. Ways and her business team's efforts to develop the AAPs by trying to redirect their attention to less important matters and ignore Ms. Ways and her business team's requests for information.
48. Mr. Schostek, Mr. Garrett, Ms. Dennison, and their support staff took the position with Ms. Ways and her business team that HAM's employment practices at that time were in compliance with the law and did not need to be changed.



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49. Thus, they did not express any desire or motivation to act affirmatively to create a diverse and more inclusive organization, which is contrary to what was told to Ms. Ways when she was hired at HAM.
50. Around the same time that the AAPs were being prepared, HAM received Equal Opportunity ("EO") Surveys from the OFCCP that had to be certified by Ms. Ways.
51. In order to certify the EO Surveys, Ms. Ways requested all of HAM's compensation data from HAM's outside counsel, who were completing the EO Surveys at the direction of HAM's legal department.
52. Ms. Ways found it extremely difficult to obtain the compensation data records from HAM's outside counsel, whom she later found out had the requisite data despite having claimed the information was not in their possession.
53. Because of the resistance she received from outside counsel, Ms. Ways was forced to inform VSSP that she would not sign and/or certify the EO Surveys without the appropriate compensation documentation, only then did VSSP send Ms. Ways the necessary data.
54. In March 2004, Mr. Schostek asked to meet with Ms. Ways while they were attending the Honda Campus All-Star Challenge ("HCASC") event held in Orlando, Florida.
55. During their informal meeting, Mr. Schostek stated for the first time that Mary Ellen Fairfield, a senior attorney with VSSP, had accused Ms. Ways of being disrespectful toward David Campbell, one of the attorneys at VSSP working on the EO Surveys.
56. Mr. Campbell and Douglas Matthews, another VSSP attorney, had been assigned the task of preparing HAM's AAPs as well as HAM's responses to the EO Surveys.
57. Ms. Ways disagreed that she had in any way acted disrespectfully in her communications with Mr. Campbell.
58. Ms. Ways further explained to Mr. Schostek that Mr. Campbell expected her to certify the EO Surveys without her having seen the compensation data that was used to compile HAM's response.
59. Mr. Schostek replied by stating that Mr. Campbell was correct in his position that Ms. Ways did not need to see the compensation data in order to certify the EO Surveys.



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60. Mr. Schostek then informed Ms. Ways that he, as an executive of HAM, regularly signs documents without requiring the supporting documentation.
61. Ms. Ways explained to Mr. Schostek that she was not comfortable with that approach, and further stated that to comply with his suggestion would be unlawful.
62. Mr. Schostek became visibly agitated upon hearing Ms. Ways' response, and continued to criticize her approach in developing strategies for diversity. However, Mr. Schostek did not offer any suggestions on how Ms. Ways might change or improve her approach.
63. Mr. Schostek did not, at any time during their conversation, indicate that their meeting was anything more than an informal meeting to discuss Ms. Ways' alleged disrespect toward Mr. Campbell.
64. When Ms. Ways returned home from the trip to Orlando, Florida, she met with Mr. Campbell at his firm's office to sign a final copy of the EO Surveys.
65. During her meeting with Mr. Campbell, Ms. Ways told him what Mr. Schostek said to her.
66. Ms. Ways observed that Mr. Campbell appeared nervous and stated, "If Mary Ellen told Rick that then that is on her," or words to that effect.
67. Ms. Ways explained to Mr. Campbell that she wanted to have a good working relationship with him, and that it was never her intent to disrespect him.
68. Mr. Campbell assured Ms. Ways that their working relationship was fine, and they shook hands and Ms. Ways departed.
69. When Ms. Ways reported what had occurred at this meeting to Mr. Schostek, he seemed to question Ms. Ways' truthfulness and further told her that he stood by Ms. Fairfield's account, stating that he trusted her.
70. When Ms. Ways asked him to explain or elaborate on his statement, Mr. Schostek told her that she needed to work on her communication skills.
71. In an effort to address Mr. Schostek's concerns, Ms. Ways immediately contacted Andrew Woods, a highly regarded communications consultant for Honda.
72. Ms. Ways invited Mr. Woods to come to HAM and review her diversity and/or inclusion strategy and to assist her in improving her ability to communicate her strategy to HAM's leadership.



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73. Mr. Woods was responsive to Ms. Ways' request and met with her approximately a week later.
74. During their meeting, Mr. Woods assured Ms. Ways that challenging the "status quo" was the Honda way.
75. After spending the afternoon and early evening in meetings with Ms. Ways, Mr. Woods invited her to dinner with a Japanese associate. That associate, who was returning to Japan, assured Ms. Ways that she was handling things the "Honda Way."
76. However, Ms. Ways' efforts were in vain because the following week on April 19, 2004 she was abruptly terminated for allegedly engaging in disrespectful behavior and for purported inaccuracies in communication.
77. During the week prior to her termination of employment, Ms. Ways received an email message from Mr. Schostek requesting a meeting with her on April 19, 2004.
78. Ms. Ways, assuming this meeting was going to be with Mr. Schostek and Mr. Garrett regarding another matter, reminded Mr. Schostek that Mr. Garrett had already scheduled a meeting for the three of them to take place on the morning of April 19, 2004.
79. In his reply, Mr. Schostek changed the time of his requested meeting to 5:00 p.m. that evening and said he would inform Mr. Garrett of the meeting change.
80. Mr. Schostek arrived for the meeting shortly after Ms. Ways, and as they were walking to the designated meeting room, Mr. Schostek told Ms. Ways that due to the nature of the meeting, Henry Real, the Senior Manager of Associate Relations at HAM, would be joining them.
81. Ms. Ways was shocked to learn that the purpose of the meeting was to terminate her employment.
82. During the meeting, Mr. Schostek proceeded to read from a typed statement the purported reasons for Ms. Ways' termination – disrespectful behavior and inaccuracies in communication.
83. When Ms. Ways inquired about whom she had been disrespectful to, Mr. Schostek replied by referring to the accusation made by Ms. Fairfield about the conversation between Ms. Ways and Mr. Campbell, a conversation that Ms. Fairfield was not present for.



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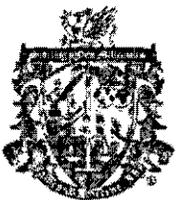
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84. With regard to the alleged inaccuracies in communication, Mr. Schostek stated this referred to an occasion when Ms. Ways told him that one of her direct reports had not received some data from another department when, in fact, they had.
85. Mr. Schostek further stated that he had previously spoken to Ms. Ways in very strong terms about her behavior and indicated that she had not corrected that behavior.
86. To Ms. Ways' knowledge, she did not receive any formal discipline during her employment at HAM.
87. Mr. Schostek never made Ms. Ways aware that any of their conversations constituted any kind of progressive discipline or corrective action nor had he or anyone else at HAM spoken to Ms. Ways in very strong terms or in any manner that might be considered anything other than casual conversation.
88. Likewise, Ms. Ways was never told that any written documentation was added to her personnel file concerning any progressive discipline or corrective action in the form of coaching or counseling that she had purportedly received from Mr. Schostek or anyone else at HAM.
89. To the contrary, Ms. Ways received two performance evaluations during her employment at HAM, both of which were favorable.
90. During the termination meeting, Mr. Schostek asked Ms. Ways for the compensation data records she had obtained from VSSP.
91. When Ms. Ways asked Mr. Schostek if her request for the compensation data was the actual reason for her termination of employment, Mr. Schostek ignored her and instead slid an envelope across the table to Ms. Ways and began explaining the terms of the severance package HAM was offering her.
92. Ms. Ways was then told to relinquish all company property in her possession before being escorted off HAM's premises.
93. During her fourteen months of employment at HAM, Ms. Ways uncovered discriminatory, inequitable, and unethical practices occurring at the company, which she reported to senior officials, including the presidents of both HAM and American Honda.
94. Ms. Ways believes her termination was in retaliation for reporting HAM's discriminatory, inequitable, and unethical practices and for her efforts to encourage HAM to comply with federal guidelines and regulations.



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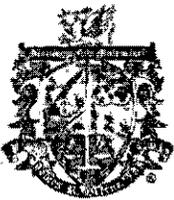
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95. Ms. Ways is not aware of any senior manager at HAM being terminated for disrespectful behavior and/or inaccuracies in communication, although several employees treated Ms. Ways with disrespect.
96. During her employment at HAM, Ms. Ways complained about the disrespect shown toward her authority as Senior Manager for Diversity Management and Ethics by Lynn Dennison and others on her staff as well as Kim Smalley, Assistant Vice President of Administration, and Pam Greeno Johnson, Manager of Staffing.
97. In her complaints, Ms. Ways provided written documentation of the disrespect shown toward her and her business team by these individuals, but none of them were terminated for their conduct and Ms. Ways is not even aware of them being disciplined.
98. During her employment at HAM, Ms. Ways tried to incorporate the "Challenging Spirit," a corporate practice that encourages employees to take initiative and be challenging and innovative. Ms. Ways was doing this very thing by opposing discrimination at HAM and making great effort to increase diversity and integrity in reporting diversity matters to federal agencies; just as President Hirashima directed Ms. Ways and her business team to do.
99. Ms. Ways performed her duties and responsibilities with the encouragement and support of several Japanese associates who told Ms. Ways that HAM would never fire anyone for spotting problems and telling the truth about them.
100. Ms. Ways subsequently filed a charge of discrimination with the EEOC, which in turn determined that HAM violated federal law by terminating Ms. Ways because of her race and in retaliation for opposing discrimination at the company.
101. The EEOC filed a federal lawsuit based on their findings.
102. Accordingly, upon information and belief, Plaintiff-Intervener has been subjected to additional discriminatory, retaliatory, and hostile treatment the full extent of which will become known throughout the course of discovery, and Ms. Ways hereby reserves the right to pursue such incidents as they become known.

First Claim for Relief

Race Discrimination in Violation of Title VII (42 U.S.C.A. §2000e-5)

103. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 102 above.



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104. At all times mentioned herein, Plaintiff-Intervener was and is an employee within the meaning of Title VII, protected against discrimination in employment on the basis of race, in that Plaintiff-Intervener is a member of a protected and recognized minority group or category.
105. At all times material hereto, Defendant HAM was and is an employer within the meaning of Title VII, having fifteen or more employees, and as such was prohibited from discriminating in employment on the basis of race.
106. Throughout her employment and up until and including her termination, Defendant HAM, by and through its agents, discriminated against Plaintiff-Intervener on the basis of her race as alleged herein.
107. Defendant HAM's purported reasons for the actions taken against Plaintiff-Intervener are pretext for discrimination.
108. Plaintiff-Intervener has been discriminated against by Defendant HAM on the basis of her race and because of her advocacy in violation of Title VII by Defendant engaging in discriminatory conduct, through the acts and/or omissions alleged herein.
109. HAM contracted with Plaintiff-Intervener to ensure equality in employment within the company.
110. In her role as the Senior Manager for Diversity Management and Ethics at HAM, Plaintiff-Intervener served as a high-level affirmative action official whose job responsibilities included advocating minority and women's rights.
111. Defendant HAM has discriminated against Plaintiff-Intervener because of her race as an African-American by restraining her and her business team from fully performing their corporate responsibility to provide leadership on EEO and corporate compliance issues at HAM.
112. As a direct and proximate result of Defendant's race discrimination, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.



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**Second Claim for Relief
Gender Discrimination in Violation of Title VII (42 U.S.C.A. §2000e-5)**

113. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 112 above.

114. At all times mentioned herein, Plaintiff-Intervener was and is an employee within the meaning of Title VII, protected against discrimination in employment on the basis of her gender, in that Plaintiff-Intervener is a member of a protected and recognized minority group or category.
115. At all times material hereto, Defendant HAM was and is an employer within the meaning of Title VII, having fifteen or more employees, and as such was prohibited from discriminating in employment on the basis of gender.
116. Throughout her employment and up until and including her termination, Defendant HAM, by and through its agents, discriminated against Plaintiff-Intervener on the basis of her gender as alleged herein.
117. Defendant HAM's purported reasons for the actions taken against Plaintiff-Intervener are pretext for discrimination.
118. Plaintiff-Intervener has been discriminated against by Defendant HAM on the basis of her gender and because of her advocacy in violation of Title VII by Defendant engaging in discriminatory conduct, through the acts and/or omissions alleged herein.
119. HAM contracted with Plaintiff-Intervener to ensure equality in employment within the company.
120. In her role as the Senior Manager for Diversity Management and Ethics at HAM, Plaintiff-Intervener served as a high-level affirmative action official whose job responsibilities included advocating minority and women's rights.
121. Defendant HAM has discriminated against Plaintiff-Intervener because of her gender by restraining her and her business team from fully performing their corporate responsibility to provide leadership on EEO and corporate compliance issues at HAM.
122. As a direct and proximate result of Defendant's gender discrimination, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.



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Third Claim for Relief
Disparate Impact Discrimination in Violation of Title VII (42 U.S.C.A. §2000e-5)

123. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 122 above.
124. Throughout her employment at Defendant HAM, Plaintiff-Intervener challenged various company employment policies and practices that were contrary to the diversity efforts she and her business team were instructed and thereafter attempted to implement.
125. Plaintiff-Intervener challenged those employment policies and practices at Defendant HAM that resulted in disparities between protected and non-protected classes. Specifically, Plaintiff-Intervener determined that Defendant HAM's employment policies and practices resulted in qualified minority candidates being denied equal job consideration and being ineligible for promotions. Likewise, jobs were not being posted and there were compliance issues, particularly in areas of under-utilization.
126. Defendant HAM's challenged employment policies and practices had an adverse effect on African-American and other minority employees at the company.
127. Plaintiff-Intervener was subsequently terminated for challenging Defendant HAM's employment policies and practices and advocating on behalf of minority employees at the company.
128. Schostek, Garrett, and Dennison, and each of their support staff, all took the position with Plaintiff-Intervener and her business team that HAM's employment practices and policies were in compliance with the law and did not need to be changed.
129. Thus, Defendant HAM did not express any desire or motivation to act affirmatively to create a diverse and more inclusive organization in response to Plaintiff-Intervener challenges, which is contrary to what was told to Plaintiff-Intervener when she was hired at HAM.
130. The employment practices and policies that were challenged by Plaintiff-Intervener failed to serve HAM's purported legitimate employment goal of creating a diverse and more inclusive organization.



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131. As a direct and proximate result of the disparate impact discrimination, disparities exist between protected and non-protected classes at HAM. In addition, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

**Fourth Claim for Relief
Retaliation in the Workplace in Violation of Title VII**

132. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 131 above.
133. At all times asserted herein, Plaintiff-Intervener was an employee within the meaning of Title VII, protected against discrimination in employment on the basis of her race and gender with regard to filing a charge of discrimination with the EEOC, in that Plaintiff-Intervener is a member of a protected group or category.
134. At all times asserted herein, Plaintiff-Intervener was engaged in protected activity when she challenged and/or reported HAM's discriminatory, inequitable, and unethical practices and encouraged HAM to comply with federal guidelines and regulations.
135. Defendant HAM, by and through its agents, has discriminated against Plaintiff-Intervener on the basis of retaliation and in violation of Title VII §704(a) of the Civil Rights Act of 1964, as amended, for challenging and/or reporting HAM's discriminatory, inequitable, and unethical practices and encouraging HAM to comply with federal guidelines and regulations.
136. As a direct and proximate result of Defendant's retaliation, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

**Fifth Claim for Relief
Creation of a Hostile Work Environment
and/or Workplace Harassment in Violation of Title VII**

137. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 136 above.



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138. Defendant HAM, by and through its agents, created a hostile work environment for Plaintiff-Intervener by fostering unfavorable working conditions and/or harassing Plaintiff-Intervener during her employment at HAM as described herein while she carried out her "check and audit" function by challenging HAM's discriminatory and/or inequitable employment policies and practices and advocated on behalf of minorities and women.
139. As a direct and proximate result of Defendant's creation of a hostile work environment and/or workplace harassment, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

Sixth Claim for Relief
Race Discrimination in Violation of 42 U.S.C. §1981

140. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 139 above.
141. At all times mentioned herein, Plaintiff-Intervener was and is a person protected against discrimination in the employment setting on the basis of race, in that Plaintiff-Intervener is a member of a protected and recognized minority group or category.
142. HAM contracted with Plaintiff-Intervener by offering her employment, which she accepted in order to ensure equality in employment within the company.
143. In her role as the Senior Manager for Diversity Management and Ethics at HAM, Plaintiff-Intervener served as a high-level affirmative action official whose job responsibilities included advocating minority and women's rights.
144. Defendant has discriminated against Plaintiff-Intervener on the basis of her race and because of her advocacy on behalf of racial minorities in violation of 42 U.S.C. §1981 as alleged herein.
145. Further, throughout her employment and up until and including her termination, Defendant HAM, by and through its agents, discriminated against Plaintiff-Intervener on the basis of her race as alleged herein.
146. Defendant HAM's purported reasons for the actions taken against Plaintiff-Intervener are pretext for discrimination.



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- 155. At all times asserted herein, Plaintiff-Intervener was in a contractual relationship with Defendant and thus protected against discrimination and retaliation in employment on the basis of her race under 42 U.S.C. §1981.
- 156. At all times asserted herein, Plaintiff-Intervener was engaged in protected activity when she challenged and/or reported HAM's discriminatory, inequitable, and unethical practices and encouraged HAM to comply with federal guidelines and regulations.
- 157. Defendant HAM, by and through its agents, has discriminated against Plaintiff-Intervener on the basis of retaliation and in violation of 42 U.S.C. §1981 for challenging and/or reporting HAM's discriminatory, inequitable, and unethical practices and encouraging HAM to comply with federal guidelines and regulations.
- 158. As a direct and proximate result of Defendant's retaliation, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

Ninth Claim for Relief
Race Discrimination in Violation of Ohio Revised Code §§4112.02 and 4112.99

- 159. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 158 above.
- 160. HAM contracted with Plaintiff-Intervener to ensure equality in employment within the company.
- 161. In her role as the Senior Manager for Diversity Management and Ethics at HAM, Plaintiff-Intervener served as a high-level affirmative action official whose job responsibilities included advocating minority and women's rights.
- 162. Defendant has discriminated against Plaintiff-Intervener on the basis of her race and because of her advocacy on behalf of minorities and women in violation of O.R.C. §§4112.02 and 4112.99.
- 163. Defendant discriminated against Plaintiff-Intervener because of her race as an African-American by restraining her and her business team from fully performing their corporate responsibility to provide leadership on EEO and corporate compliance issues at HAM.



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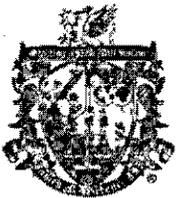
164. As a direct and proximate result of Defendant's race discrimination, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

Tenth Claim for Relief
Gender Discrimination in Violation of Ohio Revised Code §§4112.02 and 4112.99

165. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 164 above.
166. HAM contracted with Plaintiff-Intervener to ensure equality in employment within the company.
167. In her role as the Senior Manager for Diversity Management and Ethics at HAM, Plaintiff-Intervener served as a high-level affirmative action official whose job responsibilities included advocating minority and women's rights.
168. Defendant has discriminated against Plaintiff-Intervener on the basis of her gender and because of her advocacy on behalf of minorities and women in violation of O.R.C. §§4112.02 and 4112.99.
169. Defendant discriminated against Plaintiff-Intervener on the basis of her gender by restraining her and her business team from fully performing their corporate responsibility to provide leadership on EEO and corporate compliance issues at HAM.
170. Upon information and belief, Plaintiff-Intervener is not aware of any males who were denied the ability to perform their job duties or who were thwarted without cause.
171. As a direct and proximate result of Defendant's gender discrimination, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

Eleventh Claim for Relief
Disparate Impact Discrimination in Violation of Ohio Revised Code §§4112.02 and 4112.99

172. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 171 above.



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173. Throughout her employment at Defendant HAM, Plaintiff-Intervener challenged various company employment policies and practices that were contrary to the diversity efforts she and her business team were attempting to implement.
174. Plaintiff-Intervener challenged those employment policies and practices at Defendant HAM that resulted in disparities between protected and non-protected classes. Specifically, Plaintiff-Intervener determined that Defendant HAM's employment policies and practices resulted in qualified minority candidates being denied equal job consideration and being ineligible for promotions. Likewise, jobs were not being posted and there were compliance issues, particularly in areas of under-utilization.
175. Defendant HAM's challenged employment policies and practices had an adverse effect on African-American and other minority employees at the company.
176. Plaintiff-Intervener was subsequently terminated for challenging Defendant HAM's employment policies and practices and advocating on behalf of minority employees at the company.
177. Schostek, Garrett, and Dennison, and each of their support staff, all took the position with Plaintiff-Intervener and her business team that HAM's employment practices and policies were in compliance with the law and did not need to be changed.
178. Thus, Defendant did not express any desire or motivation to act affirmatively to create a diverse and more inclusive organization in response to Plaintiff-Intervener challenges, which is contrary to what was told to Plaintiff-Intervener when she was hired at HAM.
179. The employment practices and policies that were challenged by Plaintiff-Intervener failed to serve Defendant's purported legitimate employment goal of creating a diverse and more inclusive organization.
180. As a direct and proximate result of the disparate impact discrimination, disparities exist between protected and non-protected classes at HAM. In addition, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.



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**Twelfth Claim for Relief
Retaliation in Violation of Ohio Law**

181. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 180 above.
182. Defendant intentionally, willfully, and wantonly retaliated against Plaintiff-Intervener in response to her advocacy on behalf of minorities and women at HAM and for challenging discrimination at HAM.
183. As a direct and proximate result of the Defendant's retaliatory conduct, as described herein, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

**Thirteenth Claim for Relief
Creation of a Hostile Work Environment
and/or Workplace Harassment in Violation of Title VII**

184. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 183 above.
185. Defendant created a hostile work environment for Plaintiff-Intervener by fostering unfavorable working conditions and/or harassing Plaintiff-Intervener during her employment at HAM as described herein while she carried out her "check and audit" function by challenging HAM's discriminatory and/or inequitable employment policies and practices and advocated on behalf of minorities and women to ensure equality in the employment practices at HAM.
186. Defendant harassed Plaintiff-Intervener and/or subjected her to a racially and gender hostile work environment throughout her employment at HAM and up until and including the termination of Plaintiff-Intervener's employment on April 19, 2004.
187. As a direct and proximate result of Defendant's creation of a hostile work environment and/or workplace harassment, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.



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**Fourteenth Claim for Relief
Wrongful Discharge in Violation of Ohio Public Policy**

- 188. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 187 above.
- 189. Ohio has an express public policy prohibiting discrimination.
- 190. Ohio Revised Code §4112.02 reflects Ohio's strong public policy against workplace based discrimination. It states in pertinent part that "[i]t shall be an unlawful discriminatory practice:

(A) [f]or any employer, because of the **race, color, religion, sex, national origin, handicap, age, or ancestry** of any person, **to discharge without just cause**, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment." [Emphasis not in original].

- 191. Defendant has discriminated against Plaintiff-Intervener on the basis of her race and sex (gender) by terminating her employment in violation of Ohio's common law public policy against discrimination in the workplace.
- 192. As a direct and proximate result of Defendant's wrongful discharge of Plaintiff-Intervener in violation of Ohio public policy, Plaintiff-Intervener has suffered loss of income and benefits and impairment of earning capacity, emotional distress, anxiety, anguish, humiliation, and other incidental and consequential damages and expenses, all to Plaintiff-Intervener's damages in an amount according to proof.

**Fifteenth Claim for Relief
Breach of Contract**

- 193. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 192 above.
- 194. Plaintiff-Intervener's position was held under both express and implied promises of job security and in accordance with HAM's employee handbook, all of which constituted a contract of employment.
- 195. Defendant's actions in removing Plaintiff-Intervener from her position, and their failure to reinstate her, constitutes a willful breach of her contract with the Defendant.



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196. As a result of Defendant's actions, Plaintiff-Intervener has suffered irreparable injuries, including but not limited to loss of pay, benefits and other economic losses, emotional pain and suffering, mental anguish, humiliation, embarrassment, personal indignity, and other intangible injuries, all for which she should be compensated.

**Sixteenth Claim for Relief
Fraudulent Inducement and/or Fraudulent Misrepresentation**

197. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 196 above.
198. Defendant made representations, promises, and material omissions to Plaintiff-Intervener, including, among other things, that she was being hired to create a more diverse workforce at Defendant HAM.
199. In addition, Defendant fraudulently and/or negligently concealed material facts and information from Plaintiff-Intervener, including, without limitation, pertinent employee compensation data.
200. The representations and promises made by Defendant to Plaintiff-Intervener were false.
201. Plaintiff-Intervener, who had sought reassurance as to her job security, believed that Defendant's representations and promises were true as it regards her role and responsibilities at Defendant HAM, and she was unaware that they were, in fact, false.
202. Plaintiff-Intervener relied on Defendant's false representations, promises, and material omissions to her detriment.
203. Defendant HAM recruited Plaintiff-Intervener while she was employed as the Executive Director of the Dayton region of the National Conference for Community Justice ("NCCJ").
204. Defendant HAM recruited Plaintiff-Intervener from her previous job to purportedly develop strategies that would result in Defendant HAM becoming a more diverse, inclusive, and ethical organization.
205. Among other things, Plaintiff-Intervener resigned from her employment with the NCCJ, accepted employment with Defendant HAM, and forewent other employment opportunities.



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- 206. Plaintiff-Intervener's reliance was reasonable under the circumstances, as Defendant had concealed the true facts from her, and proof of their contrary intention was unavailable to her.
- 207. By the aforesaid acts and omissions of Defendant, Plaintiff-Intervener has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings, reliance damages, costs of suit, and other pecuniary losses in an amount not presently ascertained, but to be proven at trial.
- 208. As a further direct and legal result of the acts and conduct of Defendant, as aforesaid, Plaintiff-Intervener has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, and anxiety.

**Seventeenth Claim for Relief
Promissory Estoppel**

- 209. Plaintiff-Intervener hereby realleges and incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 208 above.
- 210. Defendant made representations, promises, and material omissions to Plaintiff-Intervener, including, among other things, that she was being hired to create a more diverse workforce at Defendant HAM.
- 211. Defendant HAM recruited Plaintiff-Intervener while she was employed as the Executive Director of the Dayton region of the NCCJ.
- 212. Defendant HAM recruited Plaintiff-Intervener from her previous job to purportedly develop strategies that would result in Defendant HAM becoming a more diverse, inclusive, and ethical organization.
- 213. Among other things, Plaintiff-Intervener resigned from her employment with the NCCJ, accepted employment with Defendant HAM, and forewent other employment opportunities.
- 214. Plaintiff-Intervener relied on Defendant's false representations, promises, and material omissions to her detriment.
- 215. By the aforesaid acts and omissions of Defendant, Plaintiff-Intervener has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings, reliance damages, costs of suit, and other pecuniary losses in an amount not presently ascertained, but to be proven at trial.



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216. As a further direct and legal result of the acts and conduct of Defendant, as aforesaid, Plaintiff-Intervener has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, and anxiety.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Intervener respectfully requests that this Court:

- A. Order Defendant to make Plaintiff-Intervener whole by reinstating her to her former position, awarding her appropriate back pay, front pay, and any benefits Plaintiff-Intervener would have received had Defendant not discriminated and retaliated against her on the basis of her race and gender and because of her advocacy on behalf of minorities and women and for wrongfully terminating her employment;
- B. Award Plaintiff-Intervener liquidated and consequential damages in an amount to be determined at trial for the economic loss she has suffered as a proximate result of Defendant's conduct;
- C. Impose liability upon Defendant;
- D. Award Plaintiff-Intervener compensation for past and future pecuniary losses resulting from Defendant's unlawful employment practices, including compensatory and punitive damages for the humiliation, damage to her reputation, mental and emotional distress and pain and suffering that she has experienced and endured as a result of Defendant's conduct;
- E. Order Defendant to pay Plaintiff-Intervener punitive damages for its malicious and reckless conduct.
- F. Issue a prohibitory injunction to enjoin Defendant, and its agents, employees, officers and successors in interest, and those acting in concert with them, from engaging in the illegal and unlawful customs, policies, and practices described herein and from further unlawful conduct as alleged;
- G. Issue a declaratory judgment that the acts, policies, practices and procedures of Defendant complained of herein are unlawful and are in violation of federal and state law and in violation of Plaintiff-Intervener's rights under those laws;
- H. Order Defendant to make Plaintiff-Intervener whole by providing her with employment, seniority, and any other affirmative relief necessary to eliminate the effects of Defendant's unlawful employment practices;
- I. Award Plaintiff-Intervener pre and post judgment interest on all sums awarded;



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- J. Award to Plaintiff-Intervener the costs incurred in this action and reasonable attorneys' fees; and
- K. Grant such other legal and equitable relief as is necessary and proper.

JURY DEMAND

Plaintiff-Intervener requests a jury to hear and decide all issues of fact.

STATE OF OHIO
COUNTY OF MONTGOMERY, SS:

I, Monica P. Ways, being first duly cautioned and sworn, do hereby state that I am the Plaintiff-Intervener in the above-entitled action and that I have read the foregoing Complaint and all of the facts and allegations contained therein are true and accurate to the best of my knowledge and/or belief.


Monica P. Ways

Sworn to before me, a notary public, on this 8 day of June, 2006.

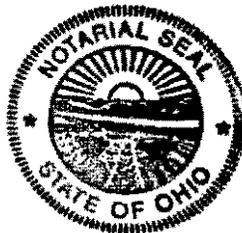


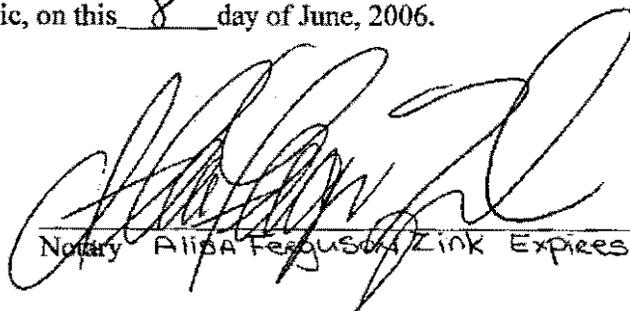
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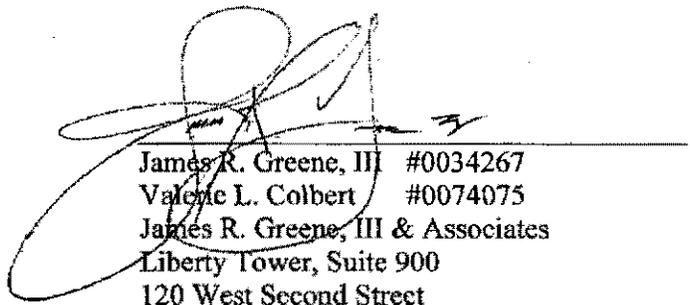
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Notary Alisa Ferguson Zink Expires 4-5-2011

Respectfully Submitted,

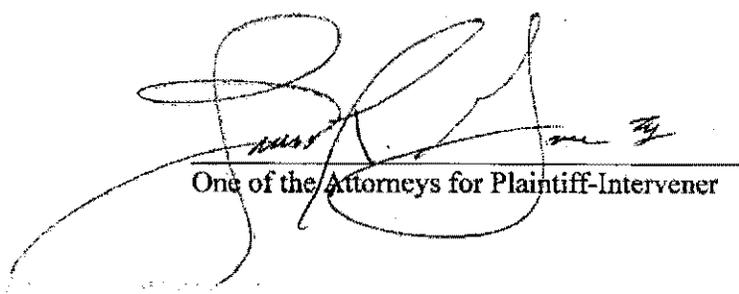


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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and accurate copy of the foregoing Verified Complaint for Money Damages with Jury Demand was served upon Defendants in a manner prescribed by the Federal Rules of Civil Procedure.



One of the Attorneys for Plaintiff-Intervener



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