

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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JUL 28 2006
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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

WALLACE BOLDEN, GREGORY
CHISM, DONALD DUNCAN, LINDELL
EPPS, JAMES GAGE, MARVIN GREEN,
TERRANCE JACKSON, JOE JONES,
EDDIE LUCAS, GUY SUTTON, JACKIE
WHITE, ZELMA WHITE, and a class of
similarly situated others,

Plaintiffs,

v.

06cv4104
JUDGE LEFKOW
MAG. JUDGE VALDEZ

WALSH GROUP d/b/a WALSH
CONSTRUCTION COMPANY

Defendant.

CLASS ACTION COMPLAINT

Plaintiffs WALLACE BOLDEN, GREGORY CHISM, DONALD DUNCAN, LINDELL EPPS, JAMES GAGE, MARVIN GREEN, TERRANCE JACKSON, JOE JONES, EDDIE LUCAS, GUY SUTTON, JACKIE WHITE, and ZELMA WHITE, individually and on behalf of all others similarly situated, by and through their undersigned Counsel of Record, for their complaint against THE WALSH GROUP d/b/a WALSH CONSTRUCTION CO., allege and state as follows:

INTRODUCTION

1. This case follows the failure of EEOC conciliation efforts between Walsh Construction and the 12 plaintiffs after class filings resulted in determinations of a pattern and practice of pervasive race discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*, as amended by the Civil Rights Act of 1991 ("Title VII") and the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended ("Section 1981), and 42 U.S.C. § 1981(a).

2. For years, Defendant Walsh has engaged in a pattern and practice of race discrimination against Blacks that has dramatically reduced its Black labor force by systematically laying off Black laborers and labor foremen and replacing them with non-Blacks.

3. Furthermore, on information and belief, Blacks who appeared at the gates of various Walsh construction sites were told that there was no work available, while non-Blacks were told that there was work available and were hired or rehired. On information and belief, various Walsh Construction Project supervisors and other high ranking Walsh Construction employees collaborated to place non-Blacks in new jobs at other Walsh Construction sites when work was complete at one site, while Blacks were simply laid off without being placed at other sites.

4. Blacks were also given less desirable work assignments and more dangerous work assignments than those given to non-Blacks, were denied resources provided to non-Blacks (including two way radios needed to safely operate cranes as well as other tools), and were subjected to racist comments which created a hostile work environment, including being referred to as "monkeys" and "niggers", hearing references to the KKK, and hearing Mexican workers commonly referred to as "new niggers."

5. This Class Action Complaint is brought by twelve (12) Blacks in their individual and representative capacities on behalf of a class of similarly situated Blacks that were systemically laid off, refused hire or recall, discharged/constructively discharged, subjected to a racially hostile environment, and discriminated against by Defendant Walsh based on their race in the terms, conditions and privileges of their employment.

6. Each Plaintiff properly filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") alleging violations of Title VII. The EEOC found that each

Plaintiff and the class of Blacks that they represent had reasonable cause to believe that his “charge of employment discrimination is true.” Right-To-Sue letters have been issued by the EEOC to the Plaintiffs.

7. Each Plaintiff, and the putative Class, has suffered severe and egregious injuries and damages as a direct and proximate result of Defendant’s unlawful conduct as alleged herein.

PARTIES

a. Plaintiffs.

8. Plaintiff, Wallace Bolden, (hereinafter “Bolden”) is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Bolden was a laborer and/or labor supervisor in the cement division of Walsh Construction.

9. Plaintiff, Gregory Chism, (hereinafter “Chism”) is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Chism was a laborer with Walsh Construction.

10. Plaintiff, Donald Duncan, (hereinafter “Duncan”) is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Duncan was a laborer with Walsh Construction.

11. Plaintiff, Lindell Epps, (hereinafter “Epps”) is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Epps was a laborer with Walsh Construction.

12. Plaintiff, James Gage, (hereinafter “Gage”) is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois,

Eastern Division. Gage was a laborer with Walsh Construction.

13. Plaintiff, Marvin Green, (hereinafter "Green") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Green was a laborer with Walsh Construction.

14. Plaintiff, Terrance Jackson, (hereinafter "Jackson") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Jackson was a laborer with Walsh Construction.

15. Plaintiff, Joe Jones, (hereinafter "Jones") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Jones was a laborer with Walsh Construction.

16. Plaintiff, Edward Lucas, (hereinafter "Lucas") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Eddie was a laborer with Walsh Construction.

17. Plaintiff, Guy Sutton, (hereinafter "Sutton") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Sutton was a laborer with Walsh Construction.

18. Plaintiff, Jackie White, (hereinafter "J. White") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. J. White was a labor foreman with Walsh Construction.

19. Plaintiff, Zelma White, (hereinafter "Z. White") is a Black individual who resides within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Z. White was a laborer with Walsh Construction.

20. Bolden, Chism, Duncan, Epps, Gage, Green, Jackson, Jones, Lucas, Sutton, J. White, and Z. White are collectively referred to herein as "Named Plaintiffs".

b. Defendant.

21. Defendant, Walsh Group d/b/a Wash Construction Co. (hereinafter "Walsh"), is on information and belief, a corporation licensed and doing business within the State of Illinois and within the territorial jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. On further information and belief, Defendant Walsh is in the business of constructing buildings in the Chicago area and 13 other metropolitan areas across the United States. Walsh is an appropriate defendant under Title VII and Section 1981.

PROCEDURAL HISTORY

CONDITIONS PRECEDENT TO FILING SUIT UNDER TITLE VII AND 42 U.S.C. § 1981

22. Each named Plaintiff timely filed a Charge of Discrimination with the Chicago District Office of the Equal Employment Opportunity Commission ("EEOC"). The Named Plaintiffs in this action filed charges of discrimination with the EEOC on the following dates and with the following charge numbers:

- (a.) Marvin Green, Charge No. 210A200902, filed February 21, 2002;
- (b.) Terrance Jackson, Charge No. 210A200926, filed February 21, 2002;
- (c.) Joe Jones, Charge No. 210A203344, filed June 3, 2002;
- (d.) Eddie Lucas, Charge No. 210A202158, filed March 13, 2002;
- (e.) Guy V. Sutton, Charge No. 210A203406, filed June 5, 2002;
- (f.) Donald Duncan, Charge No. 210A203342, filed June 3, 2002;
- (g.) Lindell Epps, Charge No. 210A202351, filed March 28, 2002;

- (h.) James Gage, Charge No. 210A202265, filed March 21, 2002;
- (i.) Jackie White, Charge No. 210A201875, filed February 2, 2002;
- (j.) Zelma White, Charge No.210 A 201873, filed February 21, 2002;
- (k.) Wallace Bolden, Charge No.210A203422, filed June 6, 2002 ;and
- (l.) Gregory Chism, Charge No.210A301631, filed January 27, 2003.

Attached hereto as Exhibit "A," and incorporated herein for reference, is a true and correct copy of each Named Plaintiff's respective EEOC Charge of Discrimination.

23. The EEOC issued a "Determination" that found in favor of each Plaintiff and determined that the evidence obtained in the investigation establishes reasonable cause to believe that Defendant discriminated against the Plaintiffs, as well as a Class of similarly situated Blacks. *Attached hereto as Exhibit "B " and incorporated herein for reference, is a true and correct copy of Each Plaintiff's EEOC Determination.*

24. Each Named Plaintiff has properly exhausted all administrative requirements and initiated litigation within ninety (90) days of receiving his/her notice of right-to-sue letter regarding same.

JURISDICTION AND VENUE

25. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1332, 1343(3) and (4), 1658 and 2201 and 2202. This is a suit authorized and instituted pursuant to the Act of Congress known as "The Civil Rights Act of 1964," 42 U.S.C. § 2000 et seq., as amended by the "Civil Rights Act of 1991" and the "Civil Rights Act of 1866," 42 U.S.C. § 1981 and 1981(a).

26. Venue is proper in this case under 28 U.S.C. § 1391(B) & (C) because Defendant Walsh has offices, maintains personnel records, and engages in or ratifies

unlawful conduct in the Northern District of Illinois adversely affecting the Named Plaintiffs and the members of the proposed class.

GENERAL ALLEGATIONS

27. Plaintiffs incorporate by reference the allegations contained in the attached Charges of Discrimination that were filed by each named Plaintiff. *See Exhibit "A."*

28. All allegations contained herein are plead in the alternative to the extent necessitated for proper construction under the law.

29. All allegations contained herein are plead based on personal knowledge as to those allegations that one or more Plaintiffs have personal knowledge of and upon information and belief as to all other allegations.

30. The Named Plaintiffs were all laborers or labor foremen working for Walsh on various construction projects.

31. Defendant Walsh knowingly adopts, ratifies, maintains and utilizes selection criteria, policies, procedures, and practices for hiring, lay offs, discharge and/or constructive discharge, recall, compensation, and job assignments that it knew or should have known had a disparate impact against Black employees and/or disparately treated Black employees less favorably than its non-Black employees.

32. Defendant Walsh intended to discriminate against the named Plaintiffs and other Blacks on the basis of their race in the terms, conditions and privileges of their employment. Moreover, the racially hostile environment created by the defendant was so severe and/or pervasive that it interfered with Plaintiffs', and other Black employees', ability to perform their job duties and responsibilities.

33. Each Named Plaintiff was qualified for the construction positions which they held and/or for which they applied. However, they were laid off, discharged and/or constructively discharged, and failed to be hired, or failed to be recalled because of their race, Black.

34. Defendant Walsh was fully aware, or should have known, of the nature and scope of the race discrimination and harassment occurring on their construction sites; however, Defendant Walsh took no action to stop the discrimination/harassment.

35. The Named Plaintiffs, and other Black employees, have complained about racial harassment and race discrimination regarding hiring, discharge and/or constructive discharge, lay offs, recall, compensation, their work environment, their terms and conditions of employment, and general discriminatory treatment of Black employees.

36. Despite the complaints and knowledge of the defendant regarding the differential and discriminatory treatment of the Named Plaintiffs and Blacks as a class, Defendant Walsh has taken no action to, address, correct, prevent, or otherwise stop the discrimination, harassment, and/or disparate impact of its policies and procedures.

37. The systemic, pattern and practice of race discrimination against Blacks, includes, but is not limited to, the following:

- (a.) failure to hire or recall Black employees;
- (b.) discharge and/or constructive discharge and/or lay off of Black employees;
- (c.) assignments to Black employees of dirtier and more difficult jobs;
- (d.) a racially hostile work environment;
- (e.) failure to allow Black employees the opportunity to work overtime, while allowing similarly situated non-Black employees the opportunity to work overtime;

(f.) reducing and/or eliminating hours of work for Black employees, while at the same time, increasing the total hours of work available to non-Black employees;

(g.) otherwise treating Black employees less favorably in the terms, conditions, responsibilities, and privileges of employment as compared to non-Black employees.

38. Each Named Plaintiff, and the putative class members, have been adversely affected by the systemic racial discrimination challenged in this case with regards to selection decisions for hiring, recalls, layoffs, job assignments, discharge and/or constructive discharge, compensation, work environment, and other terms and conditions of employment. This racial discrimination adversely affected Plaintiffs, and the Class they seek to represent, by denying them the opportunity to work in a race neutral, integrated work environment.

39. There is no legitimate, non-discriminatory reason for the unlawful race discrimination in hiring, recalls, lay offs, job assignments, discharge and/or constructive discharge, compensation, work environment, and terms, conditions and privileges of their employment.

40. Defendant Walsh's unlawful actions as alleged herein have caused severe and egregious injury and damage to the Named Plaintiffs and the Class they seek to represent.

CLASS ALLEGATIONS

A. CLASS DEFINITION

41. The Named Plaintiffs bring this suit on behalf of themselves and other similarly situated Black employees and former employees of the Defendant. The Named Plaintiffs are members of the class they seek to represent. That Class consists of current, former, and future Black employees of Defendant who, from at least January 2001 to the present, have been subjected to one or more aspects of the racial discrimination and harassment described in this Complaint.

B. CLASS PERIOD

42. The Class Period is from at least January 2001 through the present.

C. NUMEROSITY AND IMPRACTICABILITY OF JOINDER

43. The class that the Named Plaintiffs seek to represent is too numerous to make joinder practicable. The proposed class consists of hundreds of former, current, and future Black employees who either have been, or will be, employed by Defendant.

D. COMMON QUESTIONS OF LAW AND FACT

44. The prosecution of the claims of the Named Plaintiffs involve adjudication of common questions of fact and law to the putative class, including but not limited to:

(a) Whether the Defendant has engaged in systemic racial discrimination, including a pattern and practice of intentional discrimination and practices having unlawful disparate impact and/or systemic disparate treatment in its selection procedures with regards to hiring, recalls, layoffs, discharge and/or constructive discharge, job assignments, compensation, work environment, and other terms and conditions of employment in a manner made unlawful by the statutes under which this action is brought.

(b) Whether the Defendant required Blacks to work in more dangerous and/or less desirable positions than non-Black employees;

(c) Whether the Defendant terminated Blacks because of their race and/or failed to hire and/or recall Blacks because of their race;

(d) Whether the Defendant required Blacks to work in a hostile work environment; and

(e) Whether the Defendant treated the Named Plaintiffs, and other Blacks, less favorably than non-Blacks in the terms, conditions, responsibilities, benefits and privileges of employment with

Defendant Walsh.

45. The Defendant's procedures challenged herein, as well as the other systemic policies and practices that make up these procedures, are determined at the corporate level of the Defendant's operations and do not vary significantly from one construction site or geographical location to another. The employment policies, practices and procedures challenged in this Complaint are not unique or limited to one construction site or geographical area, but rather affect the Named Plaintiffs and the members of the proposed class in the same way throughout the Defendant's operations.

C. TYPICALITY OF CLAIMS AND RELIEF SOUGHT

46. The systemic racial discrimination challenged in this Complaint has affected, and continues to affect, both the named Plaintiffs and the class they seek to represent in the same way as they have been laid off, discharged and/or constructively discharged, denied recall and/or hire, subjected to a racially hostile work environment, and have been denied and other benefits terms, conditions, responsibilities and privileges of employment which has affected, and continue to affect, their employment and compensation. Moreover, the Defendants' discriminatory selection policies, practices and procedures have deprived, and continues to deprive, Black employees of the opportunity to work with people of their own race.

47. The Defendant has failed to create adequate incentives for its managerial/supervisory workforce to comply with equal employment opportunity laws regarding each of the policies, practices and procedures described in this Complaint and has failed to discipline adequately its managers and other supervisory employees for violation of these laws.

48. The claims of the Named Plaintiffs and the relief necessary to remedy the claims of

the Named Plaintiffs are the same as the claims of the putative class members and the relief necessary to remedy these claims. The Named Plaintiffs seek the following relief for their individual claims and the claims of the putative class: (1) a declaratory judgment that the Defendant has engaged in systemic racial discrimination as described above; (2) a permanent injunction against such continuing systemic discrimination; (3) damages, backpay and other equitable remedies necessary to make the Named Plaintiffs and putative class members whole from Defendant's past discrimination, including, but not limited to, reinstatement and/or frontpay.

E. ADEQUACY OF REPRESENTATION

49. The Named Plaintiffs will fairly and adequately protect the interests of the class as reflected in the preceding paragraphs. There are no conflicts of interest between the Named Plaintiffs and the members of the proposed class as each would benefit similarly from the imposition of the proposed remedies for the discriminatory employment policies, practices, and procedures challenged in this Complaint. The Named Plaintiffs have retained counsel experienced in litigating major class actions in the field of employment discrimination, and who are prepared and able to meet the time and fiscal demands of class action litigation of this size and complexity. The combined interests, experience, and resources of the Named Plaintiffs and their counsel to litigate competently the individual and class claims of race-based employment discrimination at issue satisfy the adequacy of representation requirement under Fed.R.Civ.P. 23(a)(4).

F. EFFICIENCY OF CLASS PROSECUTION OF COMMON CLAIMS

50. Certification of a class of similarly-situated Blacks is the most efficient and economical means of resolving the questions of law and fact that are common to the individual claims of the Named Plaintiffs and the proposed class. The individual claims of the Named Plaintiffs

and those of the putative class require resolution of the common question of whether the Defendant has engaged in a systemic pattern and practice of racial discrimination and/or practices which have had disparate impact and/or disparate treatment against Blacks. The Named Plaintiffs seek for themselves and the putative class remedies to eliminate the adverse effects of such discrimination in their own and the putative class members' lives, careers and working conditions and to prevent continued racial discrimination in the future. The Named Plaintiffs have standing to seek such relief. Without class certification, the same evidence and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations. Certification of the class of Blacks adversely affected by the common questions of law and fact set forth in this Complaint is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for the Named Plaintiffs, the putative class and the Defendant. The Named Plaintiffs' individual and class claims are premised upon the traditional bifurcated method of proof and trial for disparate impact and systemic disparate treatment claims of the type at issue in this Complaint. Such a bifurcated method of proof and trial is the most efficient method of resolving such common issues.

G. CERTIFICATION IS SOUGHT PURSUANT TO FED. R. CIV. P. 23(b)(2)

51. The Defendant has acted on grounds generally applicable to the Named Plaintiffs and the proposed class by adopting and following systemic practices and procedures that are racially discriminatory. Racial discrimination is the Defendant's standard operating procedure rather than a sporadic occurrence. The Defendant has refused to act on grounds generally applicable to the class by: (1) adopting and following selection procedures for hiring, recalls, layoffs, discharge, constructive discharge, job assignments and compensation that systemically discriminate against

Black individuals; and (2) refusing to provide a non-discriminatory work environment and other equal terms and conditions of work to Black employees. The Defendant's systemic discrimination and refusal to act on grounds that are not racially discriminatory have made appropriate final injunctive and declaratory relief with respect to the class as a whole.

52. Injunctive and declaratory relief is the predominate relief sought in this case because it is both the accumulation of the proof of the Defendant's individual and class-wide liability at the end of Stage I of a bifurcated trial and the essential predicate for the Named Plaintiffs' and class members' entitlement to monetary and non-monetary remedies at Stage II of such a trial. Declaratory and injunctive relief flows directly and automatically from proof of the common questions of law and fact regarding the existence of systemic racial discrimination against Black employees. Such relief is the factual and legal predicate for the Named Plaintiffs' and the class members' entitlement to monetary and non-monetary remedies for individual losses caused by such systemic discrimination.

H. CERTIFICATION IS SOUGHT PURSUANT TO FED. R. CIV. P. 23(b)(3)

53. The common issues of fact and law affecting the claims of the Named Plaintiffs and proposed class members, including but not limited to, the common issues identified above, predominate over any issues affecting only individual claims.

54. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Named Plaintiffs and members of the proposed class.

55. The cost of proving the Defendant's systemic discrimination makes it impracticable for the Named Plaintiffs and members of the proposed class to prosecute their claims individually.

56. The Named Plaintiffs are unaware of any pending race discrimination class lawsuit brought against the Defendant, and the Northern District of Illinois is the most logical forum in which

to litigate the claims of the Named Plaintiffs and the proposed class.

COUNT I

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000e, et seq.

(All Plaintiffs v. Defendant)

57. Plaintiffs restate and incorporate by reference all preceding paragraphs of this Complaint as though fully set forth herein.

58. All Plaintiffs bring Count One claims against the Defendant.

59. All conditions precedent to filing of a Title VII claim have been satisfied.

60. Defendant has discriminated against the Named Plaintiffs and the class they seek to represent with regards to a hostile work environment, hiring, discharge, constructive discharge, lay offs, recalls, job assignments, compensation, and other terms and conditions of employment because of their race in violation of Title VII of the Civil Rights Act of 1964, Title 42 U.S.C. § 2000e *et seq.*, as amended by the Civil Rights Act of 1991.

61. The Named Plaintiffs and the putative class they seek to represent have been subjected to systemic racial discrimination, including but not limited to, a pattern and practice of intentional discrimination and practices having unlawful disparate impact on their employment opportunities.

62. The Defendant's policies, practices and procedures have a disparate impact against the Named Plaintiffs and the class they seek to represent. Such policies, practices and procedures are not valid, job related or justified by business necessity. There are objective and structured selection procedures available to the Defendant which would have less disparate impact on Blacks and equal or greater validity and job relatedness, but the Defendant has refused to consider or to use such policies, practices, or procedures.

63. The Plaintiffs and the class they seek to represent have been directly affected by the discriminatory policies, practices and procedures set forth above by, among other things, being deprived of the opportunity to work in an environment free of racial discrimination. Such discrimination also denies the Plaintiffs and the class they seek to represent the opportunity of working in a fully, racially integrated work environment and otherwise adversely affects their opportunity for enjoyment of work as compared with non-Black employees who do not have to work in situations in which members of their race are victims of racial discrimination.

64. The Named Plaintiffs and the class they seek to represent are attempting to redress the wrongs alleged in this suit through equitable relief, including backpay and other equitable remedies. An equitable judgment is the only means of securing adequate relief for the Named Plaintiffs and the class they seek to represent. The Named Plaintiffs and the class they seek to represent are now suffering and will continue to suffer irreparable injury from the Defendant's unlawful policies, practices and procedures as set forth herein unless enjoined by this Court.

65. By reason of Defendant's discriminatory employment practices, the Named Plaintiffs and the class they seek to represent have experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits, and as such, are entitled to all legal and equitable remedies available under Title VII of the Civil Rights Act of 1964, as amended.

66. Defendants engaged in the conduct complained of herein with malice or reckless indifference to the federally protected rights of the Named Plaintiffs and the class they seek to represent.

COUNT II

DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981

(All Plaintiffs v. Defendant)

67. Plaintiffs restate and incorporate by reference all preceding paragraphs of this Complaint as though fully set forth herein.

68. Plaintiffs bring Count Two claims against the Defendant.

69. Defendant has discriminated against the Named Plaintiffs and the class they seek to represent with regards to a hostile work environment, hiring, discharge, constructive discharge, lay offs, recalls, compensation, job assignments, and other terms and conditions of employment because of their race in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a).

70. Defendant's conduct has been intentional, deliberate, willful and conducted with disregard of the rights of the Named Plaintiffs and members of the proposed class.

71. By reason of Defendant's pattern and practice of employment discrimination, the Named Plaintiffs and the proposed class members have experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits, and as such, are entitled to all legal and equitable remedies available under the Civil Rights Act of 1866, as amended.

COUNT III

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Zelma White, on behalf of herself, v. Defendant)

72. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

73. This Count is brought by Plaintiff Zelma White in her individual capacity against the Defendant.

74. The Defendant unlawfully discriminated and retaliated against Plaintiff Zelma White for reporting/complaining about sexual harassment, racial harassment, and/or a racially hostile work environment, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

75. There was no legitimate non-discriminatory basis for the retaliation, harassment and/or termination of Plaintiff Zelma White from her employment at Defendant.

76. Plaintiff Zelma White, by reporting and complaining about the unlawful discrimination, was exercising her right to complain about unlawful race and sex discrimination under Title VII.

77. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Zelma White.

78. Plaintiff Zelma White has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT IV

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Jackie White, on behalf of himself, v. Defendant)

79. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

80. This Count is brought by Plaintiff Jackie White in his individual capacity against Defendant.

81. The Defendant unlawfully discriminated and retaliated against Plaintiff Jackie White for reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

82. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Jackie White from his employment at Defendant.

83. Plaintiff Jackie White, by reporting and complaining about the unlawful discrimination, was exercising his right to complain about unlawful race discrimination under Title VII.

84. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Jackie White.

85. Plaintiff Jackie White has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT V

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Donald Duncan, on behalf of himself, v. Defendant)

86. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

87. This Count is brought by Plaintiff Donald Duncan in his individual capacity against Defendant.

88. The Defendant unlawfully discriminated and retaliated against Plaintiff Duncan for reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

89. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Duncan from his employment at Defendant.

90. Plaintiff Duncan, by reporting and complaining about the unlawful discrimination, was exercising his right to complain about unlawful race discrimination under Title VII.

91. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Duncan.

92. Plaintiff Duncan has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT VI

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Terrance Jackson, on behalf of himself, v. Defendant)

93. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

94. This Count is brought by Plaintiff Terrance Jackson in his individual capacity against Defendant.

95. The Defendant unlawfully discriminated and retaliated against Plaintiff Jackson for reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

96. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Jackson from his employment at Defendant.

97. Plaintiff Jackson, by reporting and complaining about the unlawful discrimination, was exercising his right to complain about unlawful race discrimination under Title VII.

98. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Jackson.

99. Plaintiff Jackson has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT VII

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT

OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Joe Jones, on behalf of himself, v. Defendant)

100. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

101. This Count is brought by Plaintiff Joe Jones in his individual capacity against Defendant.

102. The Defendant unlawfully discriminated and retaliated against Plaintiff Jones for reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

103. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Jones from his employment at Defendant.

104. Plaintiff Jones, by reporting and complaining about the unlawful discrimination, was exercising his right to complain about unlawful race discrimination under Title VII.

105. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Jones.

106. Plaintiff Jones has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT VIII

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Gregory Chism, on behalf of himself, v. Defendant)

107. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

108. This Count is brought by Plaintiff Gregory Chism in his individual capacity against Defendant.

109. The Defendant unlawfully discriminated and retaliated against Plaintiff Chism for reporting/complaining and/or being associated with reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

110. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Chism from his employment at Defendant.

111. Plaintiff Chism, by reporting and complaining about the unlawful discrimination and/or being associated with such conduct, was exercising his rights under Title VII.

112. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Chism.

113. Plaintiff Chism has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 & § 1981(A).

COUNT XI

UNLAWFUL RETALIATION AND TERMINATION IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981 and TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, 42 U.S.C. § 2000e et seq.

(Plaintiff Lindell Epps, on behalf of himself, v. Defendant)

114. Plaintiff restates and incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein

115. This Count is brought by Plaintiff Lindell Epps in his individual capacity against Defendant.

116. The Defendant unlawfully discriminated and retaliated against Plaintiff Epps for reporting/complaining about race discrimination/ hostile environment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and 1981(a) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

117. There was no legitimate non-discriminatory basis for the discrimination, retaliation, harassment and/or termination of Plaintiff Epps from his employment at Defendant.

118. Plaintiff Epps, by reporting and complaining about the unlawful discrimination, was exercising his right to complain about unlawful race discrimination under Title VII.

119. Defendant's conduct was intentional, deliberate, willful and conducted with disregard of the rights of the Plaintiff Epps.

120. Plaintiff Epps has experienced extreme harm, including loss of compensation, wages, back and front pay, damages and other employment benefits as a direct and proximate cause of Defendant's unlawful retaliation/discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1866, as amended, 42

U.S.C. § 1981 & § 1981(A).

PRAYER FOR RELIEF

WHEREFORE, the Named Plaintiffs, on behalf of themselves and the proposed class they seek to represent, request the following relief:

1. Acceptance of jurisdiction of this cause;
2. Certification of the case as a class action maintainable under Federal Rules of Civil Procedure Rule 23(a), 23(b)(2) and/or 23(b)(3) on behalf of the proposed Plaintiff class, and designation of the Named Plaintiffs as representatives of the proposed class and their counsel of record as class counsel;
3. A declaratory judgment that the employment practices challenged herein are unlawful and violative of the rights secured to Named Plaintiffs and members of the proposed class;
4. A preliminary and permanent injunction against the Defendant and its partners, officers, owners, agents, successors, employees, representatives and any and all persons acting in concert with it, from engaging in any further unlawful practices, policies, customs, usages, and racial discrimination as set forth herein;
5. An Order requiring the Defendant to initiate and implement programs that: (i) provide equal employment opportunities and a non-hostile work environment for Black employees; (ii) remedy the effects of the Defendant's past and present unlawful employment practices; and (iii) eliminate the continuing effects of the discriminatory practices described herein above;
6. An Order requiring the Defendant to initiate and implement systems for the selection of individuals to hold jobs in a non-discriminatory manner;
7. An Order placing or restoring the Named Plaintiffs and the class they seek to represent into those

jobs they should now be occupying but for the Defendant's discriminatory practices;

8. An Order directing the Defendant to adjust the wage rates and benefits for the Named Plaintiffs and the class they seek to represent to the level that they should be enjoying but for the Defendant's discriminatory practices;

9. An award of back pay; front pay; lost benefits; preferential rights to jobs; damages for lost compensation and job benefits suffered by the Named Plaintiffs and the class they seek to represent;

10. An Order requiring the Defendant to make the Named Plaintiffs, and the class they seek to represent, whole by awarding them back pay (plus interest), compensatory, punitive, liquidated, and/or nominal damages;

11. An award of litigation costs and expenses, including reasonable attorneys' fees, to the Named Plaintiffs and proposed class members;

12. Prejudgment and Post-Judgment interest;

13. An Order that this Court retains jurisdiction to ensure compliance with any order issued; and

14. Such other and further relief as the Court may deem just and proper.

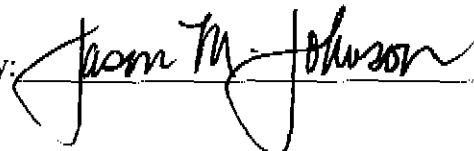
PLAINTIFFS DEMAND A TRIAL BY JURY

Respectfully submitted,

PLAINTIFFS

Dated: July 28, 2006

By:

A handwritten signature in black ink, appearing to read "Jason M. Johnson", written over a horizontal line.

ONE OF THEIR ATTORNEYS

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