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U.S. DISTRICT COURT  
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

WALTER BURNES;	LARRY A. BLANTON;	*
ANDREW D. THOMAS;	OTIS BAILEY;	*
CHARLES V. SMITH, SR.;	SUSSIE W. SMITH;	*
CARL E. WASHINGTON;	SHIRLEY C. ROBINSON;	*
DONNEL SMITH;	GEORGE GODFREY;	*
SYLVESTER TRIPLETT;	MICHAEL BROWN;	*
DEBBIE J. WISE;	RONALD L. TAYLOR;	*
CORNELIUS JOHNSON;	LEVI A. BILLUPS, III.;	*
ALLEN F. HURT;	JOHN W. JACKSON, JR.;	*
DESMOND L. HEATH;	ANNETTE K. MICKEL;	*
GLORIA CUNNINGHAM;	SHIRLEY A. HIGH;	*
JAMES A. TAYLOR;	ALFRED W. RAMSEY;	*
HILTON TEMPLE;	ALDEN N. JOHNSON;	*
DONALD E. PHILLIPS;	JOHNNY E. HAWKINS;	*
MITCHELL A. GEORGE;	ERWIN E. CURTIS, JR.;	*
ARTHUR LANE;	MESHELL BELSER;	*
MICHAEL J. McCORDY;	MARY C. JOHNSON;	*
DWIGHT HORTON;	JOHNNY PAYNE;	*

PLAINTIFFS,

\* CIVIL ACTION  
\* CV 99-AR-3280-S

vs.

PEMCO AEROPLEX, INC., and  
PRECISION STANDARD, INC.

DEFENDANTS.

**PLAINTIFFS' SECOND AMENDED COMPLAINT**

The plaintiffs, by and through counsel, hereby file this second amended complaint amending the original complaint filed on December 9, 1999.

**I. NATURE OF THE CLAIM**

1. This is an action, brought by the above named plaintiffs, thirty-six (36) in number, collectively, hereinafter referred to as "**plaintiffs**", black employees, who bring this action against the defendants, **PEMCO Aeroplex, Inc.**, and **Precision Standard Inc.**, and its

*39*

successors, to vindicate violations of the plaintiffs' civil rights and to redress the unlawful and discriminatory employment practices creating hostile working environment and racial harassment at the defendants' facility, PEMCO Aeroplex, located in Birmingham, Alabama. The plaintiffs seek declaratory, injunctive relief and other equitable, and compensatory and punitive damages against the Defendants based upon unlawful employment practices of race discrimination and racial harassment by Defendants' management, its personnel, white supervisors and white employees in violation Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e et seq., and the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S. C. Section 1981A and 42 U.S.C. Section 1981 and 42 U.S.C. 1988.

2. The original thirty-six plaintiffs respectfully request the leave of court to amend this complaint and add their claims of racial harassment creating a hostile working environment pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq.,

3. All conditions precedent to the institution of plaintiffs' Title VII claim have been fulfilled, the original thirty-six plaintiffs have satisfied all administrative requirements by the Equal Employment Opportunity Commission by filing charges of race-based discrimination against the defendants which led to the Commission's finding of reasonable cause to believe that the original thirty-six plaintiffs and blacks as a class have been subjected to a racially hostile working environment. [See Previously Submitted "Plaintiffs' Exhibits, A1-36; B1-36; C1-36 and D1-36"]

4. Defendants' unlawful employment practices of race discrimination and racial harassment constitute a pattern and practice rather than isolated incidents of racial harassment at Defendants' facility, PEMCO Aeroplex, Inc. located in Birmingham, Alabama. Defendants' pattern and practice of race discrimination have subjected the plaintiffs and other similarly situated black employees to ongoing racial harassment constituting a continuing violation of the rights of the plaintiffs and black employees in general.

## **II. JURISDICTION**

5. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1331, 1343, 1345; 28 U.S.C., Sections 2201 and 2202, which confer jurisdiction upon this Court in civil actions arising under the Constitution or the laws of the United States and to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights and the common law of the State of Alabama. This action is further authorized and instituted pursuant to Sections 703(a), 796(f) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981A and 42 U.S.C. 1981.

6. Venue is proper in this District pursuant to 28 U.S.C. Section 1391 (b) and Section 1391(c), because Defendants can be found and conduct business in Northern District of Alabama, and because the cause of action arose and occurred in the Northern District of Alabama.

## **III. THE PARTIES**

7. The plaintiffs are African-American adult black citizens of the United States of America who reside in various parts of North Alabama. They are current and past employees of the

Defendants. All of the named plaintiffs have worked for various lengths of time in Defendants' facility, PEMCO Aeroplex, located in Birmingham, Alabama.

8. The Defendant, PEMCO Aeroplex Inc. (hereinafter referred to as "PEMCO") is a corporation organized under the laws of the State of Alabama and maintains a facility in Birmingham, Alabama. PEMCO Aeroplex, Inc., is a subsidiary of Precision Standard, Inc. Defendants employ over 1300 hundred workers in their Birmingham facility.

9. The Defendant, Precision Standard Inc.(hereinafter referred to as "Precision Standard") is a Colorado corporation and maintains its corporate office in Denver, Colorado. Precision Standard is the parent company of PEMCO Aeroplex, Inc.

**IV. AMENDED COMPLAINT: FACTUAL ALLEGATIONS GIVING RISE TO  
PLAINTIFFS' CAUSES OF ACTION**

The plaintiffs re-allege and incorporate paragraphs 1 through 9 by reference and further incorporate all of the allegations and the exhibits in the plaintiffs' original complaint and amended complaint as if fully set forth herein.

10. The plaintiffs are African-American employees at the PEMCO Aeroplex facility located in Birmingham, Alabama, who have worked at the facility for various lengths of time. Some of the plaintiffs have been employed for over 20 years. At all relevant times, the plaintiffs were employees of the Defendants. All of the plaintiffs are members of a protected group under the civil rights laws of the United States of America.

11. Throughout the plaintiffs' employment with the Defendants, the plaintiffs and black employees in general have been discriminated against and continue to be discriminated against on the basis of their race by being subjected to a hostile working environment in the form of racial harassment. Said racial harassment includes, but is not limited to, demeaning and derogatory racial remarks by white supervisors and white employees, and to overtly racially-motivated verbal abuse of black employees by white supervisors and employees. There are also numerous graphic racial epitaphs and displays intended to intimidate and harass black employees. Other forms of racial harassment at the PEMCO facility includes disparate treatments of blacks with regard to the terms and conditions of employment, to wit: job assignments, general work conditions and requirements, and the application of work rules and regulations.

12. At all relevant times, the plaintiffs were subjected to and continue to be subjected to less favorable terms of employment and conditions of employment because their race. White employees received preferential treatment and continue to receive preferential treatment over black employees. Black employees were disciplined and reprimanded and continue to be disciplined and reprimanded for violation of company rules and regulations for which white employees who violated similar rules and regulations were not disciplined or reprimanded. Black employees were and continue to be subjected to excessive criticisms and unfounded complaints by white supervisors in the performance of their jobs. Plaintiffs and black employees in general are given harsher disciplinary measures than similarly situated white employees.

13. On several occasions particular tasks have been assigned to two white employees, but a similar task was assigned to one black employee with a demand that the black employee

complete the task in the same time it took the two white employees to complete. This conduct is continuing.

14. White supervisors often refer to black employees as "lazy" persons who are not equipped to perform skilled work assignments.

15. On several occasions black employees were assigned jobs that were rejected by white employees. Black employees were and continue to be disproportionately assigned to non-skilled menial jobs such as cleaning, grinding and removing corrosion, and such tasks that amount to cleaning up behind white employees.

16. For instance, the "Wash Rack" Department is disproportionately staffed by large numbers of black employees. The Wash Rack Department is believed to have the worse and most dangerous working conditions. Employees in this department are exposed to toxic chemicals and harmful chemicals used in removing paint and corrosive from aircraft's.

17. Black employees have complained without success to their supervisors and management regarding Defendants' unlawful employment practices.

18. At all relevant times and throughout the plaintiffs' employment with the defendants, black employees have been and continue to be subjected to incessant racial harassment and racial intimidation by white supervisors and white employees.

19. African-American employees of the PEMCO facility are constantly exposed to other forms of racial harassment and intimidation, including the following:

(a) racially motivated graffiti, and racial slurs written on the bathroom walls and other parts of PEMCO premises, the word, "**RIGGERS**" on government boxes with the "R" crossed over and replaced with "N" to read "**NIGGERS**";

(b) a **NO-SMOKING SIGN**-with the "SMO" crossed over to read, "**NO KING HOLIDAY**;

(c) racially demeaning writings such as "Mayor Arrington sucks Reverend Woods dick", [Mr. Richard Arrington, an African American was a former Mayor of the City of Birmingham, a black political leader and Reverend Abraham Wood, is an African American and a Civil Rights leader];

(d) other racial slurs written on the bathroom walls included, "**A BLACK MAN WILL SUCK A WHITE MAN'S DICK FOR A BALE OF COTTON**"; "**KILL ALL NIGGERS AND SEND THEM TO AFRICA**";

(e) "**KKK**" insignia were inscribed on PEMCO boxes;

(f) white supervisors and white employees alike at PEMCO regularly tell what they refer to as "**NIGGER JOKES**" and make remarks such as "**SAPPHIRE, BOYS, CHICKEN CATCHERS**" while referring to Black Employees;

(g) for several years until about a year ago, some white employees were allowed to display of large Nazi flags inside PEMCO premises and allowing white employees to display confederate flags on PEMCO assigned rollers while a black employee wearing a T-shirt with Martin Luther King and Malcolm X photograph was asked to take it off or wear the T-shirt inside out;

(h) on or about 8/19/97 a hangman noose was prominently displayed, hanging in Bay

#8 work area;

(i) on or about 10/16/97, another hangman noose was prominently displayed upstairs in Bay #1 in the Bladder shop;

(j) on or about January 18, 1998, NO-SMOKING SIGN-with the "SMO" crossed over to read, "NO KING HOLIDAY";

(k) on or a bout January 18, 1998, copies of racially derogatory and demeaning document entitled NIGGER APPLICATION were placed in PEMCO rest rooms and in the work sites of Black Employees on the premises of PEMCO AEROPLEX, INC., in Birmingham, Alabama;

(l) on or about July 27, 1998, a white employee told a black employee reporting to his job site, "**WHAT ARE YOU DOING HERE, THERE IS NO COTTON TO BE PICKED**";

(m) a white employee once painted another a rollaway belonging to a fellow black employee with black paint and when confronted by PEMCO management, the white employee admitted he painted a black employee's rollaway black as a joke;

(n) on or about April 6, 1999, a white employee found humor in the death of a black employee when the white employee was approached for a contribution toward buying flowers for the family of the deceased black employee. The white employee said, referring to the deceased black employee and other black employees "**HE IS A GOOD NIGGER NOW, ALL DEAD NIGGERS ARE GOOD NIGGERS**";

(o) in October 1999 prior to the election of two African American as representatives to the Local Union, these racial epitaphs were written on PEMCO walls: "**UAW IS FOR WHITES NO NIGGER SO DON'T COME SATURDAY**";

(p) after the meeting of local UAW meeting, two black candidates were elected as



union representatives, the following writing was discovered in the main bathroom, **“THE PEMCO NIGGER CLUB WERE WE TAKE CARE OF OUR GOOD NIGGERS”**, PEMCO employees belong to UAW Local Union 1155;

(q) on or about November 11, 1999 the following writing was found on the main bathroom wall **“BILLY CLUB IS FOR THE NIGGER PEMCO WATCH OUT FOR THE GOOD NIGGER”**;

(r) in July of 1999, a characterization of a black person with big lips was painted on the bathroom walls with a statement **“BLACK PEOPLE HAVE BIG LIPS”**;

(s) on January 11, 2000 a writing on the bathroom wall **“NIGGER COCK SUCKER ON NEGOTIATING COMMITTEE”**;

(t) at the time of filing this complaint, some of these writings are still prominent on a bathroom wall;

20. While some of these racial epitaphs have been painted over by the Defendants, several of the racial epitaphs still remain prominent on the walls of defendants’ premises at Birmingham, Alabama as at the time of filing the original complaint and this amended complaint. The racial harassment of the plaintiffs and black employees in general is continuing.

21. The plaintiffs have at various times complained to their white supervisors and managers concerning these unlawful employment practices but no effective action has been taken by the defendants to curtail the racial harassment of the plaintiffs. In one particular instance, the plant manager was confronted on the noose incident and other racial slurs, this manager’s response was that such behavior or conducts are part of the culture here.

**COUNT ONE**  
**42 U.S.C. SECTION 1981 CLAIM**

The Plaintiffs re-allege and incorporate by reference all the allegations contained within paragraphs 1 through 21 above, and further allege as follows:

22. During the course of plaintiffs' employment with the defendants and at all relevant times, black employees were and continue to be subjected to differential terms and conditions of employment, and racial harassment and racial intimidation not experienced by similarly situated whites employees .

23. The defendants have engaged in a pattern and practice of discrimination against the plaintiffs and black employees in general in the terms and conditions of employment on account of their race. This pattern and practice of discrimination has been adopted, condoned, and approved by the defendants as they have failed to take any reasonable measures to curtail and/or eradicate the unlawful employment practices described in this lawsuit.

24. Defendants had actual and constructive knowledge of the unlawful employment practices in its Birmingham facility but have failed to take reasonable steps to curtail or eradicate the racial harassment and unlawful employment practices complained of in this lawsuit.

25. Defendants failed to properly and adequately train their managerial and supervisory employees to prohibit discriminatory employment practices, including discrimination based on race and racial harassment at the Birmingham facility.

**COUNT ONE**  
**42 U.S.C. SECTION 1981 CLAIM**

The Plaintiffs re-allege and incorporate by reference all the allegations contained within paragraphs 1 through 21 above, and further allege as follows:

22. During the course of plaintiffs' employment with the defendants and at all relevant times, black employees were and continue to be subjected to differential terms and conditions of employment, and racial harassment and racial intimidation not experienced by similarly situated whites employees .

23. The defendants have engaged in a pattern and practice of discrimination against the plaintiffs and black employees in general in the terms and conditions of employment on account of their race. This pattern and practice of discrimination has been adopted, condoned, and approved by the defendants as they have failed to take any reasonable measures to curtail and/or eradicate the unlawful employment practices described in this lawsuit.

24. Defendants had actual and constructive knowledge of the unlawful employment practices in its Birmingham facility but have failed to take reasonable steps to curtail or eradicate the racial harassment and unlawful employment practices complained of in this lawsuit.

25. Defendants failed to properly and adequately train their managerial and supervisory employees to prohibit discriminatory employment practices, including discrimination based on race and racial harassment at the Birmingham facility.

26. Despite defendants' actual and constructive knowledge of company-wide racial harassment in their Birmingham facility, defendants failed to institute race sensitivity training for their employees.

27. Defendants maintain a pattern and practice of fostering and encouraging unlawful employment practices, racial harassment and racial intimidation of the plaintiffs and other black employees.

28. Defendants have failed to take appropriate steps to ensure the effective and consistent implementation of non-discriminatory employment practices. Defendants have failed to place a premium on compliance with federal Equal Employment Opportunity (EEO) requirements. Defendants have failed to enforce their own non-discrimination policy. Further, Defendants have failed to adequately train their supervisors and employees on the necessity of maintaining a racially harmonious working environment. Thus, the current discriminatory practices are continuing and are likely to continue into the future.

29. Defendants' practices and procedures for handling complaints of racial harassment do not adequately ensure that similar incidents will not occur in the future. For instance, on several occasions, white employees were caught using racial slurs towards black co-workers. However, no disciplinary measures were taken against the culpable white employees. In the event that disciplinary measures were taken, such measures were grossly inadequate, ineffective, and failed to discourage future incidents of racial harassment.

30. With respect to racial epitaphs on Defendants' premises, defendants efforts to remove said epitaphs has been limited to merely painting over some of them.

31. Upon information and belief, as at the time of filing the original complaint and this amended complaint there remains distinctively visible racial epitaphs on several locations on defendants premises in the Birmingham facility. The remaining epitaphs are witnessed daily by defendants' officials, management personnel and supervisors. Further, white employees continue to pass out racially derogatory documents intended to harass, intimidate and humiliate black employees.

32. Defendants' discriminatory and unlawful employment practices identified in this complaint have been intentional, deliberate, willful, systematic, and conducted in callous disregard of the federally protected rights of black employees granted under 42 U.S.C. 1981. The unlawful employment practices complained of by the plaintiffs have been adopted, condoned, and approved by the defendants.

33. By reason of defendants' discriminatory employment practices, black employees at the PEMCO Aeroplex facility, individually, and as a class, have suffered and continue to suffer harassment, humiliation, indignation, degradation, fear, intimidation, helplessness, embarrassment, mental anguish and emotional distress.

34. As a proximate result of Defendants' unlawful employment practices, racial discrimination and racial harassment described in this complaint, the defendants have prevented their black

employees on the basis of race from making employment contracts on the same basis and with the same freedom as is enjoyed by similarly situated white employees. Defendants, therefore, have violated and continue to violate 42 U.S.C. Section 1981, et seq., as amended by the Civil Rights Restoration Act of 1991, thus entitling the named plaintiffs to monetary and injunctive relief under both Sections 1981 and 1988.

35. As a proximate result of the unlawful employment practices of PEMCO, the unlawful employment practices of Precision Standard, the unlawful conduct of some of defendants' white supervisory staff, and the egregious racial harassment and racial intimidation occurring at the premises of the PEMCO Aeroplex facility as set forth in this complaint, the defendants have violated or caused to be violated, the rights of the plaintiffs and the rights of black employees in general under 42 U.S.C. Section 1981, and as amended by the Civil Rights Restoration Act of 1991. The named plaintiffs and black employees as a whole have suffered and continue to suffer racial damages and harm including, but not limited to, extreme emotional distress, shame, intimidation, humiliation, indignation, embarrassment and fear. As a result, the plaintiffs are entitled to compensatory and punitive damages.

36. In addition, the plaintiffs and black employees in general are threatened with further injury in the form of racial harassment and intimidation for which they have no adequate remedy at law. As such, this action is seeking, in part, permanent injunctive relief as the only means for securing complete relief and bringing to an end the irreparable injury resulting from the defendants' violations of the civil rights laws.

**COUNT TWO**  
**RACIAL HARASSMENT CREATING HOSTILE WORKING ENVIRONMENT IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

The plaintiffs re-allege and incorporate paragraphs 1 through 36 by reference and further incorporate all of the allegations and the exhibits in the plaintiff's original complaint and attached exhibits as if fully set forth herein.

37. All conditions precedent to the institution of plaintiffs' Title VII claim have been fulfilled. The original thirty six plaintiffs have satisfied all administrative requirements by the Equal Employment Opportunity Commission by filing charges of race based discrimination against the defendants. As a result, the Commission subsequently investigated plaintiffs' charges and thereafter found reasonable cause to believe that the original thirty-six plaintiffs and blacks as a class have been subjected to a racially hostile working environment. **[Plaintiffs' Exhibits, A1-36; B1-36; C1-36 and D1-36]**

38. On November 20, 2000, the original thirty-six plaintiffs' were issued their right to sue letters which were received by the individual plaintiffs and their attorneys on or about November 23, 2000.

39. On a continuing basis, the defendants have engaged in unlawful employment practices at its Birmingham facility in violation of Section 42 U.S. C. Section 2000e-2(a)(1) and 3(a), by subjecting the plaintiffs to work in a hostile working environment in the form of the racial harassment described throughout the body of this complaint.

40. The effect of the practices and conduct complained of in the preceding paragraphs of this complaint has been to deprive the plaintiffs of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

41. The unlawful practices complained of above were intentional and were done with reckless indifference to the federally protected civil rights of the plaintiffs.

42. As a proximate result reason of Defendants' discriminatory employment practices, the plaintiffs on the basis of their race, individually and as a group, have suffered and continue to suffer harassment, humiliation, indignation, degradation, fear, intimidation, helplessness, embarrassment, mental anguish and emotional distress.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the plaintiffs pray:

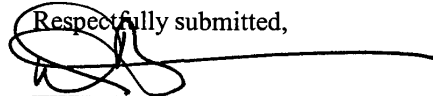
- i. upon a jury trial, for the court to adjudge and declare that the practices of the defendants complained herein and the conduct of defendants, their management personnel, managers, white supervisors and white employees are in violation of the rights of the plaintiffs under Title VII Civil Rights Act of 1964, as amended, and the Civil Rights Restoration Act of 1991, 42 U.S.C. 1981A and under 42 U.S. C 1981;
- ii. a permanent prohibitory injunction be issued prohibiting the Defendants, their officers, supervisors, agents, employees or successors, from engaging in the employment practices complained of herein;
- iii. a permanent mandatory injunction be issued requiring that the defendants adopt employment



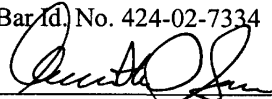
- practices in accord with the requirements of federal employment discrimination laws;
- iv. judgment be entered in favor of the plaintiffs for compensatory damages for past, present and future mental anguish, emotional distress, shame, intimidation, humiliation, indignation, embarrassment and fear, and punitive damages, all in the amount of Seventy five million dollars [\$75,000,000.00] upon a jury trial;
  - v. the plaintiffs be granted attorneys' fees, experts' fees, and the costs and expenses of this action;
  - vi. the plaintiffs be awarded such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable; and
  - vii. that the Court retain jurisdiction until such time as it is satisfied that the Defendants have remedied the practices complained of and is determined to be found in full compliance with the law.

PLAINTIFFS DEMAND TRIAL BY A JURY

Respectfully submitted,



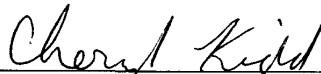
DARRYL BENDER  
Bar Id. No. 424-02-7334



KENNETH O. SIMON (SIM001)



TYRONE QUARLES (QUA010)



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CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of February 2001, I have served a copy of foregoing upon counsel for all parties, by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to:

Hon. Naomi Hilton Archer  
Senior Trial Attorney  
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