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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA, DIVISION

DEC 1 2003

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SANDRA J. DAVIS;  
VELMA B. DUNCAN;  
ROSA BROWN; AND  
ANNETTE AMICK,

CIVIL ACTION NO.  
1:03-CV-2462 - MHS  
CLASS ACTION  
4:04 CV 20-2 (CDL)

Plaintiffs,  
Vs.

VALLEY HOSPITALITY SERVICES, LLC.,  
Defendant.

FILED  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
DEC 10 PM 6:19  
DEPUTY CLERK  
*[Signature]*

**AMENDED COMPLAINT – CLASS ACTION**

The Amended Complaint of Plaintiffs, Sandra J. Davis (“Davis”),  
Velma B. Duncan (“Duncan”), Rosa Brown (“Brown”), and Annette Amick  
 (“Amick”), hereinafter referred to as “Plaintiffs”, is filed in accordance with  
FRCP Rule 15 (a) and Rule 23 pursuant to 42 U.S.C. §1981, Title VII of the  
Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e. *et seq.*, Age  
Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, and Plaintiffs  
show the Court as follows:

PLAINTIFFS

1.

Plaintiff Duncan is a resident of the Northern District of Georgia, Plaintiffs Davis and Brown are residents of the Middle District of Georgia, and Plaintiff Amick is a resident of Alabama.

DEFENDANT

2.

The Defendant, Valley Hospitality Services, LLC., (Valley Hospitality) is a Georgia Corporation, having a registered agent, J. Edward Sprouse, located at 1043 3<sup>rd</sup> Ave. Columbus, Georgia and is subject to the jurisdiction of this Court. The Defendant had been previously served.

JURISDICTION

3.

Jurisdiction for this action is pursuant to 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq*, and the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq*.

VENUE

4.

Venue is proper pursuant to 28 U.S.C. §1391 in the United States District Court for the Northern District of Georgia where Plaintiff Duncan

resides and where the Defendant is doing business, has their principle place of business, and may be found and served in the Northern District of Georgia.

### CLASS ACTION ALLEGATIONS

5.

Plaintiffs bring this action on behalf of themselves and for the Class of:

*all former and present managers, front desk employees, and other employees who have been discriminated against in the termination of their employment and other terms of employment on account of race or age at the Wyndham Hotel.*

6.

The prerequisites to this Class Action under Rule 23 (a) are met that:

- (1) The Class of approximately 40 similarly situated managers, front desk employees and other employees who have been terminated in their employment and discriminated in other terms and conditions of their employment on account of race and age at the Wyndham Hotel are so numerous that joinder of all members of the proposed Class is impractical;
- (2) there are common questions of law and fact in that the Defendant after acquiring the ownership and management of the Wyndham Hotel has engaged in a pattern of employment discrimination and termination of managers, front desk employees and other employees at the Wyndham Hotel on account of race and age in violation of the applicable civil rights laws (3)

the claims of the Plaintiffs are typical of the claims of the Class in that the Plaintiffs and similarly situated present and former employees the Defendant at the Wyndham Hotel in the Class seek equitable relief and damages against the Defendants who caused their illegal employment discrimination; and (4) the Plaintiffs will fairly and adequately protect the interest of the Class, the Plaintiffs have no antagonistic or conflicting interests which would prevent the Plaintiffs from safe guarding the rights of the Class, Plaintiffs share the same common interests with the Class, and the Plaintiffs have engaged competent counsel.

7.

The Class should be certified pursuant Rule 23 (b) (2) because the Defendants have engaged in a pattern of discrimination on account of race and age are against the Plaintiffs and similarly situated managers, front desk employees and other employees at the Wyndham Hotel in violation of the civil rights laws thereby making appropriate injunctive relief and corresponding declaratory relief as well as monetary relief with respect to the Class as a whole.

8.

The Class should be certified pursuant to Rule 23 (b) (3) because the questions or law and fact common to the Plaintiffs and to all similarly

situated employees in the Class predominate over questions affecting only individual members in that all members of the Class were illegally discriminated against in the tenure and other conditions of employment by the actions of the Defendants in engaging in a pattern of discrimination on account of race and age against the Plaintiffs and similarly situated managers, front desk employees and other employees at the Wyndham Hotel, and a class action is superior to a myriad of individual cases in which the same questions would be repeatedly litigated and which many of the present and former managers, front desk employees, and others employees of the Wyndham Hotel in the proposed Class would not have the financial or legal recourse to pursue.

#### COMMON QUESTIONS OF LAW AND FACTS

9.

Plaintiffs were all formerly employed at the Wyndham Hotel in Columbus, Georgia as managers or on the front desk prior to November 4, 2002. Plaintiff Davis had been employed for 15 ½ years and was the front desk manager, Plaintiff Brown had been employed for 1 ½ years and was a front desk employee, and Plaintiff Duncan had been employed for five months and was the housekeeping manager having been recruited by the Wyndham Hotel from Atlanta because of her fifteen years of experience

working in housekeeping for hotels. Plaintiff Amick had been employed for 13 years as the restaurant manager.

10.

Plaintiffs Davis, Duncan, and Brown are African-American females and Plaintiffs Davis, Brown, and Amick at the time of their discharges were over forty years of age, and Plaintiff Duncan is now over forty years of age.

11.

On November 1, 2002 the Defendant Valley Hospitality acquired the ownership and management of the Wyndham Hotel in Columbus, Georgia and hired the Plaintiffs to continue as employees working in their previous positions at the Wyndham Hotel. At a meeting on October 25, 2002, and again on November 1, 2002 the general manager of the Defendant Valley Hospitality, Brian Plemons, had assured all the managers that everyone of them would keep their positions at the hotel.

12.

On November 4, 2003 the owner of Defendant Valley Hospitality, Jack Pezold, at a news conference publicly stated that no employees would lose their jobs as a result of the acquisition of the Wyndham Hotel by the Defendant Valley Hospitality.

13.

On the very same day of the news conference, November 4, 2003, the Defendant Valley Hospitality terminated the employment of Plaintiff Davis, front desk manager, on the pretext that her position was being eliminated, but immediately, Amanda Fox, a younger white female assumed the function and title of front desk manager. And on November 4, 2003 Plaintiff Duncan was terminated on the pretext that her position of housekeeping manager was being eliminated, but immediately Veronica Williams, an African- American female, was taken off the front desk as the By-Request Manager and replaced by Stephanie Pezold, a younger white female, and Veronica Williams assumed the function of housekeeping manager.

14.

The next day on November 5, 2002 the Defendant's rooms executive, Bruce Raines, call in Tamara Stansel and Glenda Crawford who are white young females working on the front desk and told them that they did not have to worry that their jobs were secure because "they had the look that they wanted to have for the front desk."

15.

On December 4, 2002 Plaintiff Brown was terminated from employment on the front desk by the Defendants on the pretext that she had

accepted a check from a guest for room and tax when the Wyndham Hotel had always had a policy of accepting checks from guests with proper identification which policy she had followed and she had not been told of any change in policy. She was replaced by white younger females working on the front desk.

16.

On June 24, 2003 Plaintiff Amick was summarily forced to resign and constructively terminated as the restaurant manager and immediately replaced by a younger employee the next day. She was not told why she was terminated but subsequently the Defendants stated a pretext that she did not go out to other restaurants and recruit enough new employees to work for the hotel restaurant when that was not her responsibility.

17.

The Defendant Valley Hospitality has engaged in a pattern of discrimination against employing managers and front desk employees who are African-American and terminating African-American Managers and front desk employees who are older in favor of hiring white younger managers and front desk employees.

18.

Plaintiffs Davis and Duncan both filed a Charge of Discrimination with the Equal Employment Opportunity Commission on November 11, 2002 and Plaintiff Brown filed a Charge of Discrimination with the Equal Employment Opportunity Commission on December 31, 2002 charging discrimination based on race in violation of Title VII of the Civil Rights Act of 1964, as amended. Plaintiff Brown also filed a Charge of Discrimination based on her age in violation of the Age Discrimination in Employment Act of 1967. Plaintiff Amick filed a Charge of Discrimination with the Equal Employment Opportunity Commission on September 12, 2003 based on her age (60) in violation of the Age Discrimination in Employment Act of 1967, as amended.

19.

On July 21, 2003 Plaintiffs Davis, Duncan and Brown were sent Notice of Right to Sue letters by the District Director of the Equal Employment Opportunity Commission issued on request of Plaintiffs' attorney because more than 180 days had passed since filing of the Charges of Discrimination. On October 30, 2003 Plaintiff Amick was sent a Notice of Right to Sue letter at the request of Plaintiff Amick's attorney. Copies of

the Notice of Right to Sue letters are attached hereto and marked “Exhibit A.”

20.

The discriminatory acts and practices of the Defendant Valley Hospitality have discriminated against the Plaintiffs and similarly situated managers, front desk employees in the Class in terminating their employment because of their race in violation of Title VII, 42 U.S.C. § 2000e (2).

21.

The discriminatory acts and practices of the Defendant Valley Hospitality have discriminated against the Plaintiffs and similarly situated managers, front desk employees, and other employees in the Class in terminating their employment because of their race in violation of the United States Constitution as protected by 42 U.S.C. § 1981.

22.

The discriminatory acts and practices of the Defendant Valley Hospitality have discriminated against the Plaintiffs and similarly situated managers, front desk employees, and other employees in the Class in terminating their employment because of their age in violation of the Age Discrimination Employment Act of 1967, 29 U.S.C. § 623.

COUNT I – EQUITABLE RELIEF

23.

Plaintiffs for themselves and for other similarly situated managers, front desk employees, and other employees in The Class bring this action for equitable relief against the Defendant for discrimination on account of race and age in violation of the Civil Rights laws of the United States.

24.

Plaintiffs and similarly situated managers, front desk employees, and other employees in the Class have been terminated in their employment and other terms of employment by the Defendant at the Wyndham Hotel in violation of the Civil Rights laws of the United States.

25.

The continued illegal employment discrimination by the Defendants of the Plaintiffs and similarly situated managers, front desk employees and other employees in the Class has caused and continues to cause them to suffer discrimination in the loss of their employment and other conditions of their employment and will continued to suffer irreparable injury unless the discriminatory actions are enjoined and restrained by this Court.

26.

Plaintiffs and similarly situated managers, front desk employees, and other employees in The Class are entitled to equitable relief that the Defendant be ordered and enjoined to cease discrimination on account of race and age against the Plaintiffs and members of the Class and that Plaintiffs and similarly situated managers, front desk employees, and other employees who have been discriminated against by the Defendant on account of race and age be ordered reinstated to their former employment positions at the Wyndahm Hotel with the payment by the Defendant of all back pay and fringe benefits that the Plaintiffs have suffered loss because of the employment discrimination of the Defendant.

COUNT II - DAMAGES

27.

Plaintiffs for themselves and for similarly situated managers, front desk employees, and other employees in The Class bring this action against the Defendant for damages that the discriminatory acts of the Defendant has caused them in violation of the Civil Rights laws of the United States.

28.

The Plaintiffs and similarly situated managers, front desk employees, and other employees in The Class are entitled to recover damages including

front pay as provided by law from the Defendant for employment discrimination in their tenure and other conditions of employment in violation of the civil rights laws of the United States.

29.

The actions of the Defendants were intentional, reckless, and vindictive entitling the Plaintiffs and similarly situated managers, front desk employees, and other employees in The Class to an appropriate award of punitive and exemplary damages.

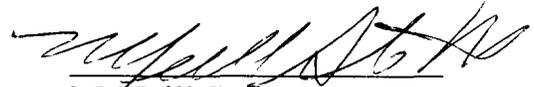
WHEREFORE, Plaintiffs for themselves and other members of The Class respectfully prays for the relief as follows:

- (1) That the Court certify: The Class as sought or modified, the Plaintiffs as Class Representatives, and the undersigned counsel as Class Counsel;
- (2) For a declaration that the acts and practices complained of herein by the Defendant are in violation of the Civil Rights Act of 1964, the United States Constitution, 42 U.S.C. § 1981, and the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*;
- (3) That the Defendant be ordered to reinstate Plaintiffs and members of The Class to the positions that they would have

occupied prior to the discriminatory conduct of the Defendant, or if the Court deems reinstatement inappropriate, that the Defendant be ordered to pay front pay for future loss of earnings;

- (4) That the Plaintiffs be awarded back pay in an amount to compensate them for their lost wages and benefits;
- (5) That the Defendant be enjoined from conduct in the future in violation of the Civil Rights Act of 1964, the United States Constitution, 42 U.S.C. § 1981, and the Age Discrimination in Employment Act of 1967;
- (6) That the Plaintiffs be awarded compensatory, consequential, punitive and liquidated damages in the maximum amounts allowed by law;
- (7) That the Defendant be ordered to pay reasonable attorneys fees and costs;
- (8) That Plaintiffs be awarded prejudgment interest on all tangible damages from the date of loss;
- (9) That the Plaintiffs be awarded such other and further relief as they may be entitled to under the laws of Georgia and the United States;

(10) That this case be tried by jury.

  
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Tel. & Fax. No. 404-367-0507

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing Amended Complaint – Class Action upon the following parties by United States Mail with sufficient postage prepaid and addressed to:

William L. Tucker  
Page, Scrantom, Sprouse, Tucker & Ford, P.C.  
1043 Third Avenue  
Columbus, Georgia 31901

This 15<sup>th</sup> day of December, 2003

McNeill Stokes  
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