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16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18

19 NICOLE COGDELL, *et al.*,


20 Plaintiffs,
21

22 v.

23 THE WET SEAL, INC., *et al.*,

24 Defendants.
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28

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA
BY 

Case No.: SACV 12-01138 AG (ANx)

**FIRST AMENDED COMPLAINT
FOR DAMAGES: 42 U.S.C. § 1981;
TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964**

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiffs bring this action on behalf of themselves and all others similarly
2 situated for race discrimination in employment by The Wet Seal, Inc., The Wet Seal
3 Retail, Inc., Wet Seal GC, Inc., and Wet Seal GC, LLC (collectively, “WET
4 SEAL”), and allege as follows:

5 INTRODUCTION

6 1. This action challenges WET SEAL’s policy and practice of
7 discriminating against African-American store management employees at Wet Seal
8 and Arden B. stores from at least 2008 to the present, in violation of 42 U.S.C. §
9 1981 and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.).
10 This policy was adopted by the most senior executives of the company, and resulted
11 in the targeting of African-American employees for termination because of their
12 race and color, and a denial of pay and promotions for African Americans on the
13 same basis as white store employees.

14 2. In addition to strong circumstantial evidence that WET SEAL enforced
15 an illegal policy of discrimination, direct evidence in the form of emails and
16 testimony of former managers also demonstrates that WET SEAL corporate
17 executives at the highest levels instructed managers to terminate African-American
18 employees, and to “diversify” their work forces by hiring and promoting white
19 employees who fit the WET SEAL “brand image.” The EEOC found in its
20 Determination of Plaintiff Nicole Cogdell’s charge that “corporate managers have
21 openly stated they wanted employees who *had the ‘Armani’ look, had blue eyes,*
22 *thin, and blond in order to be profitable.*” (emphasis in original). In one email, the
23 second in command of WET SEAL, the Senior Vice President of Store Operations,
24 reporting on a series of store visits, stated to the Vice President of Store Operations
25 and a district manager that, “African American dominate – huge issue.” High-level
26 WET SEAL corporate executives also instructed a district manager to “clean the
27 entire store out” by firing all African-American employees at one or more stores,
28 and they threatened to terminate Store Managers if they did not staff more white

1 employees than African-American employees in their stores.

2 3. Plaintiffs bring this case as a class action on behalf of current and
3 former WET SEAL store management employees and seek back pay, general
4 damages, and punitive damages.

5 **PARTIES**

6 4. Plaintiff Nicole Cogdell is an African-American woman who was
7 formerly employed by WET SEAL at its Springfield, Pennsylvania and King of
8 Prussia, Pennsylvania stores. She is a resident of Delaware County, Pennsylvania.

9 5. Plaintiff Kai Hawkins is an African-American woman who was
10 formerly employed at WET SEAL stores in California, Pennsylvania and New
11 Jersey, and was last employed at the Cherry Hill, New Jersey store. She is a
12 resident of Delaware County, Pennsylvania.

13 6. Plaintiff Myriam Saint-Hilaire is an African-American woman who
14 was formerly employed by WET SEAL at its King of Prussia store. She is a
15 resident of Delaware County, Pennsylvania.

16 7. Plaintiff Michelle Guider is an African-American woman who was
17 formerly employed by WET SEAL at its Arden B. store in Durham, North
18 Carolina. She is a resident of Wake County, North Carolina.

19 8. Defendant The Wet Seal, Inc. is a Delaware corporation headquartered
20 in Foothill Ranch, Orange County, California.

21 9. Defendant The Wet Seal Retail, Inc. is a subsidiary of The Wet Seal,
22 Inc. and is a Delaware corporation headquartered in Foothill Ranch, Orange
23 County, California.

24 10. Defendant Wet Seal GC, Inc. is a subsidiary of The Wet Seal, Inc. and
25 is a Virginia corporation headquartered in Foothill Ranch, Orange County,
26 California.

27 11. Defendant Wet Seal GC, LLC is a subsidiary of The Wet Seal, Inc.
28 and is a Virginia limited liability company headquartered in Foothill Ranch, Orange

1 County, California.

2 12. Defendants The Wet Seal, Inc., The Wet Seal Retail, Inc., Wet Seal
3 GC, Inc., and Wet Seal GC, LLC are collectively referred to as "WET SEAL."

4 13. WET SEAL sells women's clothing and accessories at its
5 approximately 550 stores under the Wet Seal and Arden B. store names
6 (collectively referred to as "WET SEAL stores"). It employs over 7,000
7 employees, including 2,000 full-time employees.

8 **CLASS ACTION ALLEGATIONS**

9 14. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of
10 Civil Procedure on behalf of current and former African-American store
11 management level employees of WET SEAL. "Store management level"
12 employees include current and former Assistant Managers, Co-Managers, and Store
13 Managers of WET SEAL.

14 15. The members of the class are sufficiently numerous that joinder of all
15 members is impracticable. On information and belief, the class includes over 250
16 class members.

17 16. There are questions of law and fact common to the class, and these
18 questions predominate over individual questions. Such questions include, among
19 others: (1) whether WET SEAL has a general policy of discrimination with regard
20 to pay, promotion, and termination of African-American store management level
21 employees; (2) whether WET SEAL has a pattern or practice of discrimination with
22 regard to pay, promotion, and termination of African-American store management
23 level employees; and (3) whether punitive damages are warranted.

24 17. The claims alleged by Plaintiffs are typical of the claims of the class.
25 All Plaintiffs were African-American store management level employees who have
26 been harmed by WET SEAL's discriminatory policies and practices.

27 18. Plaintiffs will fairly and adequately represent the interests of the class.

28 19. If the class is certified, Plaintiffs will provide the "best notice

1 practicable under the circumstances” to the class pursuant to Fed. R. Civ. P.
2 23(b)(c)(2)(B), including but not limited to mail, posting, and distribution to current
3 employees.

4 20. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
5 because common questions of fact and law predominate over any questions
6 affecting only individual members of the class, and because a class action is
7 superior to other available methods for the fair and efficient adjudication of this
8 litigation. The members of the class have been damaged and are entitled to
9 recovery as a result of WET SEAL’s common and unfair discriminatory personnel
10 policies and practices.

11 21. Particular issue certification of class liability is also appropriate under
12 Rule 23(c)(4) because such claims present only common issues, the resolution of
13 which would benefit the parties and serve judicial economy.

14 **JURISDICTION AND VENUE**

15 22. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§
16 1331 and 1343.

17 23. This Court has personal jurisdiction over this action because WET
18 SEAL corporate headquarters are located in Foothill Ranch, California, which is in
19 Orange County, and WET SEAL does business in stores throughout this district and
20 the State of California.

21 24. Venue is proper within this District pursuant to 28 U.S.C. § 1391(b),
22 because WET SEAL’s headquarters are located in this District and WET SEAL
23 maintains branches throughout California and this District, and is subject to
24 personal jurisdiction in this District. Moreover, a substantial part of the events,
25 acts, and omissions giving rise to the claims of Plaintiffs and the proposed class
26 occurred in this District.

27 **WET SEAL POLICIES AND PRACTICES**

28 25. Each WET SEAL store employs Sales Associates, Assistant Managers,

1 and Store Managers. Larger stores also have a Co-Manager, an intermediate
2 position between Assistant Manager and Store Manager. Store Managers report to
3 a District Manager, who typically supervises ten to twelve stores. District
4 Managers report to Regional Managers. On information and belief there are
5 currently four Regional Managers for WET SEAL, and during the relevant time
6 period, both Wet Seal and Arden B. stores moved from a separate reporting
7 structure to reporting to the same District and Regional Managers, and WET SEAL
8 store management employees have been promoted between Wet Seal and Arden B.
9 stores. Regional Managers report to the Vice President of Store Operations, who in
10 turn reports to the Senior Vice President of Store Operations, who reports directly
11 to the CEO of WET SEAL.

12 26. While a Store Manager may hire Sales Associates within limited pay
13 ranges, all hiring of such personnel at rates above these pay ranges must be
14 approved by district and higher level management. On occasion, Store Managers
15 are directed or required by higher level managers, to hire, or not hire, specific
16 individuals for sales positions. All promotions to store management level positions
17 must be approved by District and Regional Managers. All store management pay
18 must be approved by District and Regional Managers, and, if pay exceeds company
19 pay ranges, the pay must be approved by the Vice President of Store Operations.
20 All terminations of store employees must be approved by District and Regional
21 Managers and the corporate Human Resources Department.

22 27. WET SEAL has no formal promotion policy or application procedure
23 for store management positions it fills internally, nor does it post such openings.
24 Other than minimal experience and age requirements, it has no written criteria to
25 determine which employees should be promoted. Store management pay is
26 supposed to be based on a pay scale tied to the size and profitability of each store.
27 In fact, frequent exceptions to this scale are granted by senior management. There
28 are no written criteria that guide the granting of such exceptions.

1 28. Although WET SEAL has a written non-discrimination policy, this
2 policy is neither enforced nor monitored for compliance. On information and
3 belief, WET SEAL does not collect or compile accurate data, including the race and
4 ethnicity of applicants for hire and employees regarding hiring, pay, promotions, or
5 terminations. On information and belief, for many years WET SEAL has not
6 prepared and filed accurate EEO-1 reports with the United States Equal
7 Employment Opportunity Commission ("EEOC") showing the racial and ethnic
8 demographics of its workforce as required by federal equal employment
9 regulations.

10 29. WET SEAL has a general policy and practice of discriminating against
11 its nonwhite employees, and particularly its African-American employees. This
12 policy and practice is manifested in the following ways:

13 a. Failing and refusing to promote African-American store
14 employees to store management positions on the same basis as white
15 employees are promoted;

16 b. Failing to pay African-American store management employees
17 at the same rates as similarly-situated white employees;

18 c. Limiting promotion opportunities for African-American
19 employees at stores with a significant white clientele;

20 d. Insisting on a "brand" or "image" of its employees that
21 predominantly reflects a white image, an image reinforced by WET SEAL's
22 advertising to the general public;

23 e. Holding African-American store management employees to
24 higher performance standards than white store management employees;

25 f. Terminating African-American store management employees on
26 the basis of their race and not performance; and

27 g. Failing and refusing to take adequate steps to eliminate the
28 effects of its past discriminatory practices.

1 30. The above-listed discriminatory policies and practices are and have
2 been devised, implemented, and enforced by a small group of the most senior
3 corporate managers, including WET SEAL's President and CEO, Senior Vice
4 President of Store Operations, Vice President of Store Operations, and corporate
5 Human Resources executives. These senior officials have enforced these policies
6 through store visits, management meetings, and electronic and telephonic
7 communications to lower level management employees. They have fired
8 management employees who opposed these policies, and ignored or rejected
9 recommendations by lower level managers to hire, pay, and promote African-
10 American employees on the same basis as white employees. They have imposed
11 their own management and sales employee selections in stores. Examples of the
12 implementation of this general policy and practice of discrimination include:

13 a. Senior Vice President of Store Operations Barbara Bachman
14 ("Bachman") instructed a District Manager to "clean the entire store out" by
15 firing all African-American store management employees in or around
16 August 2008:

17 b. After Bachman conducted a surprise store visit and realized that
18 the Store Manager she had previously approved was African-American, she
19 ordered the District Manager to terminate or demote the African-American
20 Store Manager, and replace her with a white manager. She threatened to
21 terminate the District Manager if she did not terminate African-American
22 employees, and ordered her to terminate Store Managers that did not
23 "diversify" (i.e., increase the number of white employees in) their store work
24 force;

25 c. Bachman instructed store management personnel of the WET
26 SEAL store at the King of Prussia Mall ("King of Prussia store") to hire more
27 employees who looked like a particular blond white sales associate;

28 d. On March 3, 2009, Bachman sent an email to a District

1 Manager, copying Vice President of Store Operations Barbara Harris
2 (“Harris”), describing store visits she had conducted of twenty stores in the
3 Maryland and Philadelphia region. Bachman wrote: “Global Issues . . .
4 Store teams – need diversity/African American dominate – huge issue.” A
5 true and correct copy of this email is attached as Exhibit 1 and incorporated
6 by reference;

7 e. Bachman told a District Manager that the Regional Manager
8 must have “lost her mind” putting a black person in charge of a particular
9 store. She instructed managers to “lighten up” their stores (i.e., terminate
10 African-American and hire white employees). She informed a Regional
11 Manager that there were “way too many” African-American store employees
12 in the Maryland market;

13 f. Bachman targeted stores with primarily African-American
14 employees to be “cleaned up” as an urgent priority, but did not target
15 similarly-situated stores with mostly non-minority employees with
16 comparable performance;

17 g. Director of Human Resources Patricia Sprowell made racially
18 derogatory comments about female African-American employees to a newly
19 hired Regional Manager, saying that such employees will get pregnant “if
20 they touch the counter.” She also stated that African-American employees
21 were difficult to manage. On another occasion she instructed a Regional
22 Manager to “figure out a way to get rid” of two African-American employees
23 who had filed race discrimination complaints with the EEOC;

24 h. President and CEO Ed Thomas (“Thomas”), Senior Vice
25 President Bachman, and Vice President Harris frequently made store visits,
26 during or after which they instructed managers to “diversify” the work forces
27 in stores with largely African-American employees and to hire and promote
28 white employees who fit the “brand image.” They made no such requests

1 regarding stores that were staffed predominantly by white employees; and

2 i. Vice President of Store Operations Harris required a Regional
3 Manager to provide photographs of her District Managers in a portfolio
4 which was used to discuss and evaluate them as candidates for advancement
5 within the company.

6 31. WET SEAL has relied on advertising that predominantly features
7 white models as a means of projecting a "brand image," which was understood in
8 the company to mean white females.

9 32. In order to protect African-American employees from discrimination,
10 managers have taken steps to ensure that African-American employees were not
11 working in the store front when a high level corporate executive made a store visit
12 by, for example, sending African-American employees to the back of the store or
13 on a lunch break when a visit by a corporate official was expected.

14 33. On information and belief, since 2008, senior management positions,
15 including senior corporate managers, Regional Managers, and District Managers,
16 have been held almost exclusively by white employees.

17 34. On information and belief, African-American store management level
18 employees are and have been paid less on average than similarly-situated white
19 employees, promoted at a lower rate and to less desirable stores, and fired at a
20 higher rate than white employees.

21 **PLAINTIFF COGDELL**

22 35. Plaintiff Nicole Cogdell ("Cogdell") was hired by WET SEAL on
23 November 20, 2008 as Store Manager for the WET SEAL retail store in the
24 Springfield Mall, Springfield, Pennsylvania ("Springfield Mall store"). Cogdell
25 had substantial prior retail management experience, including prior employment as
26 a Store Manager at WET SEAL approximately ten years earlier.

27 36. Prior to being hired in 2008, Cogdell was interviewed in person by the
28 WET SEAL Philadelphia District Manager and by telephone by the WET SEAL

1 Regional Manager assigned to the Northeast Region, Ms. Davey ("Davey").

2 37. While Cogdell was the Store Manager for the Springfield Mall store,
3 the objective and subjective performance metrics for that store improved
4 substantially, including:

- 5 a. Increased retail sales;
- 6 b. Decreased theft from the store; and
- 7 c. Significantly improved cleanliness and orderliness of the store.

8 38. At or around the same time, the King of Prussia store was experiencing
9 significant problems in the following areas:

- 10 a. Sales below projective levels;
- 11 b. Significant shrinkage; and
- 12 c. Significant reported issues regarding cleanliness and
13 disorganization.

14 39. The Philadelphia District Manager recommended Cogdell for Store
15 Manager at the King of Prussia store, on or around January 2009. Because the
16 King of Prussia store was a busier store in a more lucrative market, and the pay for
17 its Store Manager was higher than that for the Springfield Store Manager, this move
18 was a promotion for Cogdell. Cogdell was promoted to Store Manager at the King
19 of Prussia store in January 2009. On information and belief, at the time this
20 promotion was approved, WET SEAL senior management was not aware that
21 Cogdell was African-American.

22 40. Under Cogdell's direction, the King of Prussia store improved
23 substantially according to both objective and subjective measures utilized by WET
24 SEAL to analyze store performance. On or about Friday, February 27, 2009, at
25 mid-day, Bachman visited the King of Prussia store along with the Philadelphia
26 District Manager and other corporate officials.

27 41. Cogdell and two African-American Sales Associates overheard
28 Bachman express dismay to the Philadelphia District Manager that Cogdell was the

1 Store Manager, saying she wanted someone with “blond hair and blue eyes.”

2 42. Cogdell reasonably felt betrayed, humiliated, and belittled by what she
3 felt were Bachman’s obviously racist comments and their implications for her own
4 and her Sales Associates’ value to WET SEAL.

5 43. On information and belief, Bachman also stated to the Philadelphia
6 District Manager that Regional Manager Davey “must be out of her mind” to have
7 placed an African American in the position of Store Manager at the King of Prussia
8 store, and that the African-American Cogdell was not the “brand image” WET
9 SEAL wanted to project.

10 44. On information and belief, later that same day (February 27, 2009),
11 Davey called Harris to complain that Bachman was being unfair and was not
12 looking at the objective measures, which showed substantial improvement in the
13 store’s performance. Harris assured Davey she would speak to Bachman about it.
14 Bachman terminated Davey from her position as Regional Manager on the
15 following Monday, March 2, 2009. On information and belief, Davey was
16 terminated in retaliation for placing an African American, Cogdell, in the position
17 of Store Manager at the King of Prussia WET SEAL store, and for protesting
18 Bachman’s criticisms of Cogdell as unfair.

19 45. On Tuesday, March 3, 2009, Bachman sent an email to the
20 Philadelphia District Manager and others which stated that African-American
21 predominance on store teams was a “huge issue.”

22 46. On Tuesday March 3, 2009, Cogdell was advised by the Philadelphia
23 District Manager that her employment was being terminated. On information and
24 belief, Bachman ordered the termination of Cogdell’s employment because of
25 Cogdell’s race, and advised the Philadelphia District Manager that if the
26 Philadelphia District Manager did not terminate Cogdell, the Philadelphia District
27 Manager would be fired.

28 47. One day after she received notice of her termination, March 4, 2009,

1 Cogdell contacted the EEOC and filed a charge of discrimination based on race, in
2 violation of Title VII and the Pennsylvania Human Relations Act. A copy of this
3 charge is attached hereto as Exhibit 2 and incorporated by reference.

4 48. On March 5, 2009, Cogdell contacted Barbara Arneklev ("Arneklev"),
5 WET SEAL's Vice President of Human Relations, to complain about
6 discriminatory comments and treatment and left a voice message requesting a call.

7 49. When Arneklev returned Cogdell's call on March 5, 2009, Cogdell
8 told Arneklev that she was going to her doctor the next day and preferred to
9 communicate in writing.

10 50. Cogdell was greatly distressed by these events and suffered loss of
11 sleep, headaches, and other physical and emotional distress.

12 51. Cogdell's physician ordered her out of work until March 16, 2009.

13 52. Later on March 5, 2009, the Philadelphia District Manager
14 communicated via email to Cogdell that there was a "new career opportunity"
15 which she would secure in written form. Cogdell never received written
16 confirmation of a "new career opportunity."

17 53. On information and belief, the "opportunity" the Philadelphia District
18 Manager was authorized to offer Cogdell was a demotion back to the lower-paying
19 Springfield Store Manager position.

20 54. Cogdell viewed managing the Springfield store as both a demotion and
21 as part of WET SEAL's pattern of segregating African-American Store Managers
22 by assigning them to stores in mixed or largely African-American markets.

23 55. On March 6, 2009, Arneklev called Cogdell and told her "not to
24 worry" about the Springfield store and said that she could work in the King of
25 Prussia store.

26 56. Cogdell agreed to work at the King of Prussia store on the condition
27 and with the understanding that issues of racism in the workplace would be
28 addressed there before she returned. Cogdell's next day of work at the King of

1 Prussia store was on March 16, 2009.

2 57. Cogdell reasonably expected that while she was out, WET SEAL
3 would have at least initiated an investigation into racially motivated employment
4 practices under Bachman, and would have reassured employees that racial
5 discrimination in any form would not be tolerated by WET SEAL.

6 58. Instead, Cogdell learned that WET SEAL had taken no steps to
7 address employee concerns about racial discrimination by management when she
8 was approached, the same day, by African-American employees of WET SEAL
9 who had overheard Bachman's comments about Cogdell to the District Manager
10 and had received no follow up from WET SEAL about discrimination and racism in
11 the workplace.

12 59. Cogdell was shocked to learn that WET SEAL had taken no steps to
13 deal with issues of racism, which were clearly known to WET SEAL before her
14 termination and return to work. She advised Arneklev by telephone that she would
15 finish out the day but would not continue to work for WET SEAL because the
16 company had done nothing to address employees' concerns about racism in the
17 workplace. Arneklev said she was "sorry" but made no offer to address the
18 situation.

19 60. Cogdell believed that employment under these conditions had become
20 intolerable. A reasonable African-American employee in the same circumstances
21 would have concluded that continued employment would be intolerable.
22 Accordingly, Plaintiff Cogdell was constructively terminated by WET SEAL.

23 61. On or about May 12, 2010, Cogdell filed an amended EEOC charge
24 describing the events that occurred after March 4, 2009, when she filed her initial
25 charge. A copy of the amended charge is attached as Exhibit 3 and incorporated by
26 reference.

27 62. The EEOC investigated Cogdell's treatment by Wet Seal and
28 determined that the evidence established "a violation of Title VII in that Charging

1 Party was subjected to a hostile work environment and the conditions were so
2 intolerable her only recourse was to resign.” A copy is attached as Exhibit 4 and
3 incorporated by reference. The EEOC subsequently issued a Notice of Right to Sue
4 on this charge, and this First Amended Complaint was timely filed within 90 days
5 of this Notice.

6 63. After her constructive discharge by WET SEAL, Cogdell attempted to
7 find work in retail sales but was unable to secure a position despite her experience
8 and qualifications. On information and belief, WET SEAL discriminated and
9 retaliated against Cogdell because of her race and opposition to discriminatory
10 practices by failing to provide fair references to potential employers.

11 64. On information and belief, Cogdell was replaced as Store Manager at
12 the King of Prussia store by a white employee with a poor performance record and
13 less experience and who was paid more than Cogdell was.

14 65. On information and belief, WET SEAL routinely promoted white
15 females to store management and higher positions despite their being unqualified or
16 poor performers according to WET SEAL’s internal standards, including, for
17 example, promoting the white manager of the Granite Run store to a high profile
18 store shortly after Bachman described that store as “embarrassing and totally
19 unacceptable-[one] of the worst stores I have seen in a long time!” (Exhibit 1.)

20 66. On information and belief, in or around June 2009, Bachman
21 complimented a Maryland District Manager for her rapid comprehension of the
22 “WET SEAL look,” after Bachman toured a store that had previously been staffed
23 largely by African Americans but was then staffed entirely or mostly with white
24 employees. The District Manager understood this comment to refer to the racial
25 composition of the store employees.

26 67. Although as Store Manager she was charged with some hiring
27 responsibilities, at no time during her employment did Cogdell receive any training
28 regarding equal opportunity policies or procedures at WET SEAL.

PLAINTIFF HAWKINS

68. Plaintiff Kai Hawkins ("Hawkins") first began working for WET SEAL in or around July 2002 at the Plymouth Meeting Pennsylvania store. She was promoted to Store Manager within several months. Hawkins was a successful Store Manager who was particularly good at reducing "inventory shrink" in stores she managed, and received commendation and a bonus for that success from WET SEAL.

69. In 2003 and 2004, Hawkins was assigned to manage WET SEAL stores in the Oak Ridge Mall in San Jose, California, and the Valley Mall in Santa Clara, California. Both stores had high shrink before Hawkins took over as Store Manager, and both had much improved numbers under Hawkins.

70. Hawkins returned to the Philadelphia region in 2004. Although she had been promised a "high profile" store such as King of Prussia, Hawkins was instead assigned to the Gallery Store at Market East in Philadelphia, a store with a much larger percentage of minority shoppers. Hawkins asked repeatedly to be transferred to the King of Prussia store, but was never given the opportunity to manage this store, despite success in all her assignments.

71. In 2008, Hawkins was transferred to the Cherry Hill New Jersey store, which has a larger percentage of minority shoppers than King of Prussia. The Cherry Hill store was visited by Thomas, Harris and Bachman at or around the end of 2008. In or around late February or early March, 2009, Hawkins was told by the Philadelphia District Manager that the executive management of WET SEAL had said that if Hawkins did not "diversify" the staff at the Cherry Hill store by hiring more non-black employees within thirty days, she would be terminated. At that time, the Cherry Hill store employees were Hawkins (African-American), one Co-Manager (Asian-American), two Assistant Managers (one African-American and one white), and approximately eight Sales Associates (four African-American, three Latina, and one white).

1 72. On or about March 3, 2009, Hawkins saw the “huge issue” email from
2 Bachman (Exhibit 1). Hawkins was highly offended, but as a single mother she
3 did not feel she had alternatives but to keep working for WET SEAL. On
4 information and belief, WET SEAL executives were aware that Bachman’s email
5 had been forwarded to WET SEAL employees, including Hawkins. In March 2009,
6 the Philadelphia District Manager told Hawkins that WET SEAL management
7 wanted to get rid of her and that she should “watch her back.”

8 73. After both the Regional and District Managers to whom she reported
9 left the company, in March 2009, the new District Manager made hiring decisions
10 for the Cherry Hill store, and hired non-minority employees, rejecting without
11 explanation an African American recommended by Hawkins. This was contrary to
12 the usual WET SEAL practice, which was for Store Managers to make hiring
13 decisions for their store. On information and belief, these hiring decisions were
14 taken over by the new District Manager in order to assure that new hires at the
15 Cherry Hill store were white.

16 74. Shortly after the new District Manager assumed her duties, she gave
17 Hawkins a written discipline for shrink, despite the fact that the store audit upon
18 which the discipline was based included a period before Hawkins began to work in
19 her store, and WET SEAL senior management were aware that the sensor tags did
20 not work with the Cherry Hill equipment. Hawkins protested the discipline to HR
21 but never received a response. On information and belief, this discipline was
22 unwarranted, was out of proportion to what was imposed on similarly-situated
23 white Store Managers, and was a pretext to begin the process of terminating
24 Hawkins because of her race.

25 75. By 2010, Hawkins was one of only two African-American Store
26 Managers in the Philadelphia District; the other was assigned to the Gallery
27 location Hawkins had previously managed. Hawkins was advised by the
28 Philadelphia District Manager in February 2010 that she was terminated for having

1 low sales and high shrink results.

2 76. In fact, the Cherry Hill shrink figures had improved since Hawkins
3 took over as Store Manager and were continuing to improve, at the time of her
4 termination. Nor had Hawkins been afforded the benefit of mentoring or
5 progressive discipline, which, on information and belief, was routinely offered to
6 similarly-situated white Store Managers.

7 77. When she had sought transfer to other stores, Hawkins was told that it
8 was WET SEAL policy that Store Managers in high shrink stores are not eligible
9 for promotion or transfer; however, in or around November 2009, an Asian-
10 American Co-Manager from the Cherry Hill store was promoted to manage an
11 Arden B. store.

12 78. Although as Store Manager Hawkins was charged with hiring
13 subordinates, at no time during her employment with WET SEAL did Hawkins
14 receive any training regarding equal opportunity policies or procedures.

15 79. Hawkins observed that African-American employees were terminated
16 despite doing a good job and without any explanation. On information and belief,
17 an African-American employee she supervised, K. Benson, was singled out for
18 termination by Bachman because of her race, as she was a good worker who was
19 liked and respected by her colleagues and by the Philadelphia District Manager,
20 who cried as she terminated Benson.

21 80. On information and belief, during the last two years of her
22 employment at WET SEAL Hawkins' performance was as good as or better than
23 that of white Store Managers. Despite WET SEAL policy that employees receive
24 regular reviews, Hawkins received no performance reviews during her last two
25 years at WET SEAL, which made her ineligible to receive any raise. On
26 information and belief, similarly-situated white employees received performance
27 reviews and raises during this period.

28 81. On information and belief, similarly-situated white employees with

1 lesser qualifications were promoted to higher paying positions than Hawkins.

2 82. After her termination, Hawkins sought employment. Despite her
3 qualifications, she was unable to secure employment until November 2011. On
4 information and belief, WET SEAL discriminated against and retaliated against
5 Hawkins because of her race and opposition to discriminatory practices by failing
6 to provide a fair reference to potential employers.

7 83. During the pendency of the Cogdell and other similar EEOC charges
8 of discrimination, Hawkins filed a timely charge of discrimination with the EEOC,
9 a copy of which is attached hereto as Exhibit 5 and incorporated by reference. The
10 EEOC subsequently issued a Notice of Right to Sue on this charge, and this First
11 Amended Complaint was timely filed within 90 days of this Notice.

12 **PLAINTIFF SAINT-HILAIRE**

13 84. Plaintiff Myriam Saint-Hilaire ("Saint-Hilaire") was hired by WET
14 SEAL in January 2007 as an Assistant Manager at WET SEAL's King of Prussia
15 store. She had retail loss prevention experience from her prior work at one of WET
16 SEAL's competitors.

17 85. Although she understood that she was going to be hired into the Co-
18 Manager position, Saint-Hilaire was given the title of Assistant Manager but
19 required to perform the duties of a Co-Manager.

20 86. According to WET SEAL policy, Saint-Hilaire should have received
21 periodic written performance reviews. Salary increases are provided as a result of
22 positive reviews. Saint-Hilaire never received a written performance review.
23 Every time she was due for a review, her Store Manager made an excuse to explain
24 why Saint-Hilaire would not receive a review. As a result, Saint-Hilaire never
25 received the pay increases that would have resulted from positive reviews. On
26 information and belief, similarly-situated white employees received performance
27 reviews and periodic raises.

28 87. Saint-Hilaire's performance at WET SEAL should have resulted in

1 positive performance reviews.

2 88. On one occasion in 2007, Saint-Hilaire was written up by her Store
3 Manager for being late (after working late the night before—hours past her
4 scheduled shift—because the store was understaffed), but white associates were
5 frequently late and not written up.

6 89. In or around December 2007, Thomas, then-President and CEO of
7 WET SEAL, visited the King of Prussia store. A few weeks after Thomas's visit to
8 the King of Prussia store, Saint-Hilaire heard from the Philadelphia District
9 Manager that she had been present with Thomas and three or four other high-level
10 corporate executives of WET SEAL when Thomas or his assistant said that they
11 were "not comfortable" with the staff at the King of Prussia store, and that while
12 the store had been doing well, it would do better if the employees had a "different
13 look" that would attract more customers. The Philadelphia District Manager was
14 told to hire an all-new management staff, keeping only the Store Manager (who
15 was white) and an African-American Assistant Manager with a very light
16 complexion. The District Manager later told Saint-Hilaire that Thomas and the
17 other high-level officials wanted her to fire the African-American employees, and
18 that she was under intense pressure to fire the African-American employees in the
19 King of Prussia store.

20 90. Saint-Hilaire was upset by what the Philadelphia District Manager told
21 her. The Philadelphia District Manager said that she would do her best to keep her,
22 and that Saint-Hilaire should "stay under the radar" by keeping the store as clean as
23 possible and not doing anything that would make her a target to be fired.

24 91. At around the same time, in late 2007 or early 2008, the King of
25 Prussia store was understaffed. One Associate said that she knew someone with
26 retail experience who could work in the store. The Store Manager, who was white,
27 asked, "Is she black?" and when the Associate said yes, the Store Manager said that
28 she had been told that they could not hire any more African-Americans, because

1 there were too many African-Americans and the company “needed diversity.”

2 92. The Store Manager also told Saint Hilaire and other store employees
3 that they “need to hire more diversity,” that they had a lot of African-American
4 employees, and that they should try to attract the kind of clientele that shopped at
5 their more upscale competitors, such as Abercrombie & Fitch.

6 93. In mid-2008, a white, tall, thin, blond Sales Associate named Leslie
7 was hired to work in the King of Prussia store. The Store Manager hired Leslie
8 because she thought she could “help them” with the “diversity issue” and because
9 she fit the “brand image,” which was understood to mean white females. On
10 information and belief, Leslie was also approved for higher pay than the other
11 Associates. When Leslie later indicated that she might leave WET SEAL, she was
12 offered a raise because the management wanted to keep her in the store.

13 94. On information and belief, the Vice President for Store Operations told
14 the Philadelphia District Manager that they needed to hire “people like Leslie for
15 the WET SEAL look” to “be profitable in every way.”

16 95. Saint-Hilaire went on maternity leave in late 2008. Several weeks
17 after she returned from leave, she was fired by the Philadelphia District Manager on
18 February 13, 2009. The District Manager was crying when she fired Saint-Hilaire.

19 96. The District Manager told Saint-Hilaire that she was being fired
20 because she was not covering all the areas in the store while training a new
21 associate, and that she did not greet a manager who came into the store. White
22 employees were not disciplined for such conduct, and the store was too short-
23 staffed to allow full coverage of the store. On information and belief, these reasons
24 were a pretext for terminating Saint-Hilaire based on race.

25 97. On information and belief, the Philadelphia District Manager was
26 instructed by senior management to fire Saint-Hilaire because she was African-
27 American.

28 98. On information and belief, during Saint-Hilaire’s employment at WET

1 SEAL, she was paid less than similarly-situated white employees, and was denied
2 promotions to better paying positions that less qualified white employees received.

3 99. On information and belief, all or nearly all of the current employees in
4 the King of Prussia store are white.

5 100. On March 9, 2009, Saint-Hilaire filed a race discrimination charge
6 with the EEOC alleging that her termination was discriminatory, a copy of which is
7 attached hereto as Exhibit 6 and incorporated by reference. The EEOC
8 subsequently issued a Notice of Right to Sue on this charge, and this First Amended
9 Complaint was timely filed within 90 days of this Notice.

10 101. After her termination, Saint-Hilaire attempted to find employment.
11 WET SEAL refused to give her a reference or even verify her employment. On
12 information and belief, this refusal to verify employment or give a reference was in
13 retaliation to Saint-Hilaire's opposition to WET SEAL's discriminatory practices
14 and filing of an EEOC charge and was intended to and did interfere with Saint-
15 Hilaire's ability to find subsequent employment.

16 **PLAINTIFF GUIDER**

17 102. Plaintiff Michelle Guider ("Guider") was hired by WET SEAL in or
18 around September of 2009 as a Sales Associate in the Arden B. store in Durham,
19 North Carolina. Guider had prior management experience.

20 103. At that time, the Durham store management team was made up of one
21 Store Manager (white) and two Assistant Managers (one white and one African-
22 American). All but one of the four to seven Sales Associates were African-
23 American.

24 104. According to WET SEAL policy, Guider should have received
25 periodic written performance reviews. WET SEAL employees are awarded salary
26 increases based on positive performance reviews.

27 105. Guider never received a written performance review. On information
28 and belief, similarly-situated white employees received performance reviews and

1 periodic raises.

2 106. Guider orally received positive feedback about her performance from
3 her Store Manager, including the Store Manager's recommendation that Guider be
4 promoted to Assistant Manager. Guider's performance at WET SEAL should have
5 resulted in positive performance reviews.

6 107. In or around July 2010, the Durham Store Manager promoted Guider
7 to Assistant Manager.

8 108. In mid-2010, the Store Manager resigned and a white Assistant
9 Manager was promoted to Store Manager.

10 109. On one occasion in 2010, Guider overheard the North Carolina District
11 Manager, Marleen Coakley, and the new Store Manager discussing store hiring.
12 One of them stated that the store needed to hire "some white girls, some Hispanic
13 girls to broaden the horizon." She stated that the store needed to hire more students
14 from the University of North Carolina at Chapel Hill, a school that is known in the
15 area to be predominantly white.

16 110. On another occasion in 2010, the Store Manager told Guider that the
17 store "needed to hire a more diverse group of girls." At that time, nearly all of the
18 Sales Associates in the Durham store were African-American.

19 111. When Coakley visited the Durham store, she did not speak to African-
20 American employees, except to criticize an African-American Sales Associate
21 about her appearance. The Sales Associate was fired in or around February 2011.

22 112. On information and belief, Coakley imposed a new rule that Store
23 Managers were not permitted to hire Sales Associates without Coakley's
24 participation in a second-round interview. During one such interview at another
25 Arden B. store in North Carolina, Coakley asked the candidate "So what are you?"
26 referring to the candidate's ethnicity.

27 113. In or around February of 2011, Coakley visited the Durham store and
28 told Guider that her performance needed to improve. Although Coakley had visited

1 the Durham store on at least two prior occasions, this was the first time Guider
2 received any feedback from Coakley on Guider's performance at WET SEAL.

3 114. Coakley told Guider that she wanted to work with her to improve
4 Guider's performance in the areas of sales and store displays. Coakley stated that
5 she would visit the store more often to assist Guider in these areas. Guider
6 responded positively to what she believed to be an opportunity for professional
7 development, and she expressed a willingness to work on the stated performance
8 objectives.

9 115. Later that same week, Coakley informed Guider that she was being
10 demoted to Sales Associate at a lower rate of pay.

11 116. On information and belief, Coakley instructed the Store Manager to
12 reduce Guider's work hours. Guider had previously worked full-time as an
13 Assistant Manager and before that, three to four days per week as a Sales Associate.
14 After she was demoted, Guider was scheduled to work only one regular shift and
15 two "call-in" shifts, which meant she would not work unless another employee was
16 absent.

17 117. Guider felt humiliated by having to work alongside employees whom
18 she had previously supervised. She was unable to support herself without regularly
19 scheduled shifts. Guider believes that Coakley demoted her and reduced her hours
20 and pay to force Guider to resign.

21 118. Guider believed that employment under these conditions had become
22 intolerable. A reasonable African-American employee in the same circumstances
23 would have concluded that continued employment would be intolerable.
24 Accordingly, Guider was constructively discharged. Guider resigned from WET
25 SEAL in or around February 2011.

26 119. On information and belief, during Guider's employment at WET
27 SEAL, she was paid less than similarly-situated white employees.

28 120. On information and belief, Guider was replaced as Assistant Manager

1 by a white employee with less experience who was hired after Guider and whom
2 Guider had trained. An African-American Sales Associate also expressed interest
3 in the vacant Assistant Manager position, but she was denied an interview even
4 though she had a positive performance record and more experience than the white
5 employee who was ultimately selected.

6 121. On information and belief, after Guider was forced to resign from
7 WET SEAL, three additional African-American women who had been Sales
8 Associates at the Durham store were fired.

9 122. On information and belief, Coakley instructed the Store Manager to
10 terminate the employment of one of the African-American Sales Associates for
11 leaving her cell phone in the break room instead of inside her locker, but white
12 Sales Associates frequently carried cell phones on the sales floor and were not
13 disciplined or fired.

14 123. On information and belief, Coakley also instructed the Store Manager
15 of the WET SEAL store in Greenbrier, North Carolina to fire or demote black
16 employees and replace them with white employees. All or nearly all of the current
17 employees at the Durham store are white.

18 **FIRST CLAIM FOR RELIEF: DISCRIMINATION IN**
19 **VIOLATION OF 42 U.S.C. § 1981**

20 124. Paragraphs 1-123 are incorporated by reference. This claim is brought
21 on behalf of Plaintiffs and the class they represent. The foregoing conduct violates
22 42 U.S.C. § 1981 because such conduct discriminates against the Plaintiffs and
23 class on the basis of their color and race.

24 125. As a result of WET SEAL's discriminatory conduct, Plaintiffs and the
25 class they represent have been denied equal pay and have lost compensation and
26 benefits they would have been entitled to in the absence of discrimination, and have
27 suffered emotional distress and consequential damages.

28 126. WET SEAL has performed the acts alleged with malice, fraud,

1 oppression, and/or reckless indifference to the protected rights of Plaintiffs and the
 2 class. Plaintiffs and the class are thus entitled to recover punitive damages in an
 3 amount according to proof.

4 **SECOND CLAIM FOR RELIEF: RETALIATION IN**
 5 **VIOLATION OF 42 U.S.C. § 1981**

6 127. Paragraphs 1-126 are incorporated by reference. This claim is made
 7 on behalf of Plaintiffs Cogdell, Hawkins, and Saint-Hilaire.

8 128. The foregoing conduct violates 42 U.S.C. § 1981 because such
 9 conduct was in retaliation to the opposition by Cogdell, Hawkins, and Saint-Hilaire
 10 of discrimination on the basis of race and color. As a result of WET SEAL's
 11 discriminatory conduct, Plaintiffs Cogdell, Hawkins, and Saint-Hilaire have lost
 12 compensation and benefits to which they would have been entitled in the absence of
 13 discrimination, and have suffered emotional distress and consequential damages.

14 129. WET SEAL has performed the acts alleged with malice, fraud,
 15 oppression, and/or reckless indifference to the protected rights of Cogdell,
 16 Hawkins, and Saint-Hilaire. Cogdell, Hawkins, and Saint-Hilaire are thus entitled
 17 to recover punitive damages in an amount according to proof.

18 **THIRD CLAIM FOR RELIEF: DISCRIMINATION IN VIOLATION**
 19 **OF TITLE VII OF CIVIL RIGHTS ACT OF 1964**

20 130. Paragraphs 1-129 are incorporated by reference. This claim is brought
 21 on behalf of Plaintiffs and the class they represent. The foregoing conduct violates
 22 Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.) because such
 23 conduct discriminates against the Plaintiffs and class on the basis of their color and
 24 race. Plaintiffs and the class have met all statutory prerequisites to suit and have
 25 filed these claims in a timely manner.

26 131. As a result of WET SEAL's discriminatory conduct, Plaintiffs and the
 27 class they represent have been denied back pay and front pay and have lost
 28 compensation and benefits they would have been entitled to in the absence of

1 discrimination, and have suffered emotional distress and consequential damages.

2 132. WET SEAL has performed the acts alleged with malice, fraud,
3 oppression, and/or reckless indifference to the protected rights of Plaintiffs and the
4 class. Plaintiffs and the class are thus entitled to recover punitive damages in an
5 amount according to proof.

6 **FOURTH CLAIM FOR RELIEF: RETALIATION IN VIOLATION OF**
7 **TITLE VII OF CIVIL RIGHTS ACT OF 1964**

8 133. Paragraphs 1-132 are incorporated by reference. This claim is made
9 on behalf of Plaintiffs Cogdell, Hawkins, and Saint-Hilaire. Plaintiffs have met all
10 statutory prerequisites to suit and have filed these claims in a timely manner.

11 134. The foregoing conduct violates Title VII of the Civil Rights Act of
12 1964 (42 U.S.C. § 2000e et seq.) because such conduct was in retaliation to the
13 opposition by Cogdell, Hawkins, and Saint-Hilaire of discrimination on the basis of
14 race and color. As a result of WET SEAL's discriminatory conduct, Plaintiffs
15 Cogdell, Hawkins, and Saint-Hilaire have lost compensation and benefits to which
16 they would have been entitled in the absence of discrimination, and have suffered
17 emotional distress and consequential damages.

18 135. WET SEAL has performed the acts alleged with malice, fraud,
19 oppression, and/or reckless indifference to the protected rights of Cogdell,
20 Hawkins, and Saint-Hilaire. Cogdell, Hawkins, and Saint-Hilaire are thus entitled
21 to recover punitive damages in an amount according to proof.

22 **FIFTH CLAIM FOR RELIEF: HOSTILE ENVIRONMENT**
23 **IN VIOLATION OF TITLE VII OF CIVIL RIGHT ACT OF 1964**

24 136. Paragraphs 1-135 are incorporated by reference. This claim is
25 brought on behalf of Plaintiff Cogdell. The foregoing conduct violates Title VII of
26 the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.) because such conduct
27 created a hostile racial environment and forced the constructive termination of
28 Plaintiff Cogdell. As a result of WET SEAL's discriminatory conduct, Plaintiff

1 Cogdell has lost compensation and benefits to which she would have been entitled
2 in the absence of discrimination, and has suffered emotional distress and
3 consequential damages.

4 137. WET SEAL has performed the acts alleged with malice, fraud,
5 oppression, and/or reckless indifference to the protected rights of Cogdell. Cogdell,
6 is thus entitled to recover punitive damages in an amount according to proof.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for relief as follows:

- 9 1. An order reinstating Plaintiffs and class members to their rightful
10 positions;
11 2. All lost pay and benefits sustained by Plaintiffs and the class as a result
12 of WET SEAL's conduct according to proof;
13 3. Compensatory damages for emotional distress;
14 4. Front pay for Plaintiffs and the class;
15 5. Punitive damages for Plaintiffs and the class;
16 6. Costs incurred, including reasonable attorneys' fees to the extent
17 allowable by law;
18 7. Pre-judgment and post-judgment interest, as provided by law; and
19 8. Such other and further legal and equitable relief as this Court deems
20 necessary, just, and proper.

21 **JURY TRIAL DEMAND**

22 Plaintiffs on behalf of themselves and all other similarly situated, demand a
23 jury trial in this action for all claims so triable.

24 Dated: January 9, 2013

By: 

25 Bill Lann Lee

26 Bill Lann Lee (SBN 108452)
27 LEWIS, FEINBERG, LEE,
28 RENAKER & JACKSON, P.C.

476 9th Street
Oakland, California 94607
Telephone: (510) 839-6824
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blee@lewisfeinberg.com

*Attorneys for Plaintiffs and the
Proposed Class*

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EXHIBIT 1

----- Original Message -----

From: Barbara Bachman

To: Cristina Sanchez

Cc: Barbie Harris

Sent: Mon Mar 02 14:33:48 2009

Subject: FW: Barbara/Maria/Andrea Store Visit Notes

Vice President of Wet Seal

Christina,

Please review and we can talk tomorrow! I really need you to work around the clock to get these issues resolved and get this market turned around immediately! I will call you sometime tomorrow! Thanks! bb

Store Visits - Maryland, and Philadelphia Markets

20 stores (6 AB & 14 WS)

Stores Visited:

WS Lake Forest

AB Montgomery

WS Owing Mills

WS/AB Towson

WS White Marsh

WS Galleria at Harbor

WS Arundel Mills

WS Annapolis

WS Tyson's

WS/AB King of Prussia

WS Plymouth Meeting

AB Willow Grove

WS/AB Cherry Hill

AB Walnut Street

WS Gallery at Market

WS Deptford

WS Springfield

Global Issues:

Lack of Leadership

DD's need clarity of expectations - DD's must work around the clock and do what it takes to get this market turned around

Store Teams - need diversity African American dominate - huge issue

Harbor Place Galleria - Indianapolis and the Granite Run stores were embarrassing and totally unacceptable - Some of the worst stores I have seen in a long time!

Majority of stores are not disciplined in following marketing and visual directives - tend to do their own thing

Stores are borrowing bags from other stores (Galleria - Harbor Place borrowed a case from Victoria Secret Cherry Hill using WS bags)

The majority of stores do not understand the "shop" concept within the store

Majority of stores had not started or completed the hanger size ring task

WS King of Prussia

Nicole Cogdell

Store Manager is not right for this store - she has been in this store for a month!

The new fixture package in this store looked fantastic!

AB King of Prussia

Staff appeared friendly

Store presented well

WS Plymouth Meeting

Melissa and Tina (Melissa - Hot Topic look)

Employee came to work 15 minutes early and started to watch a personal video in the backroom

Complained of Air conditioning being broken - people have been sent to fix it twice and still not fixed

Empty wall unit cannot be used as it has caused 2 fires

"E" of Wet Seal - flames

Visually solid

AB Willow Grove

Staff was friendly

Strong week - up 30 percent

Need to check damages

"Backroom Inspection" tag still posted on backroom door - No longer use

WS Cherry Hill

WS - Store was visually unappealing -

Long lines at the cash wrap and fitting rooms - of the 8 fitting rooms they had - one was housing fixtures and could not be used

Nordstrom - opening March 27th

Mall renovation looked great! Lots of traffic - 2 level XXI going in

Missing Clearance BIG1 Item 1 cant - rounder not signed

Did not execute Valentine's merchandise markdown

Take down mannequins 6' high in the air

Maria - Andrea, Matt and I are "adopting" this store

Had not even started to execute the hanger size rings

Need to get some of the extra mannequins from Tyson's

AB Cherry Hill

Holiday Policy signs were still posted at the cash wrap

Kamal - Asst working - did not appear friendly

Store using WS bags

AB Walnut Street

Great layout of store

Staff was friendly

DD communicated an LP issue

Leatherette jackets done well

Good traffic

WS Gallery at Market

Good Manager for this store

EAS system has not worked properly in a year! If you throw the merchandise in the air up high - it activates the alarm!

1 fitting room door broken

Sent a vacuum - needs bags

Directed store to put ENR merchandise adjacent from the cash wrap

Candidate for Party tables?

Lease does not expire until 2013 - store is the original Contempo store with a small face lift

DD has only been there twice since November

Guard service - not good - Manager has to tell him not to read the newspaper

WS Deptford

Store is AAA - borderline AAAA - inventory level and assortment was worse than an A store

Staff was very friendly - Liked the store manager - Stephanie - a lot!!

Granite Run

Store had hung the BA Peace sign above the platform

Store had no music on - the player had broken the day before

Store was embarrassing! Visuals and outfits looked ridiculous!

WS Springfield

New Store Manager lacked fast paced retail skill - bad hire

Stephanie from Deptford was in this store training her

Gave direction to rework scarf and boot wall

EXHIBIT 2

EEOC Form 6 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

530-2009-01834

Pennsylvania Human Relations Commission

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Nicole Cogdell

Home Phone (incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WET SEAL

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(610) 768-0331

Street Address

City, State and ZIP Code

160 North Gulph Road, King Of Prussia, PA 19460

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)DATE(S) DISCRIMINATION TOOK PLACE
Earliest**03-03-2009****03-03-2009**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Respondent as a Store Manager at its Springfield, PA location on 11/10/2008. On 1/02/2009, I was promoted to Store Manager for King of Prussia and I simultaneously ran both stores for approximately a month and a half before solely concentrating on King of Prussia. I had no performance deficiencies. On March 3, 2009, I was given my termination notice (given two weeks) by Christina Sanchez, District Director. I believe the reason for my termination was my race, black.

I believe that in violation of Title VII of the Civil Rights Act of 1964, as amended, I have been notified of my termination on the basis of my race, black. I believe a class of blacks (District-wide and perhaps nationally) have been denied hire or terminated because of this race-based decision. Respondent's Senior Executive Management has issued a directive to decrease the number of Black employees and hire Caucasians District wide. Approximately two weeks ago, I myself was told to discharge Black employees and hire white employees. I was actively trying to transfer my Black employees to another store (Springfield) so not to fire them. I transferred Cassie (white) and Kathleen (white) over to King of Prussia. Christina Sanchez told me to set up interviews solely based on hiring whites (race).

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY -- When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Mar 04, 2009

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

EEOC FORM 131 (5/01)

U.S. Equal Employment Opportunity Commission

Ms. Barbara Amiekiez
V. P. of Human Resources
WET SEAL
26792 Burbank
Foothill Ranch, CA 92610

PERSON FILING CHARGE

Nicole D. Cogdell

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

530-2009-01834

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ Title VII of the Civil Rights Act☐ The Americans with Disabilities Act☐ The Age Discrimination in Employment Act☐ The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☒ No action is required by you at this time.2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.3. ☐ Please provide by _____ a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by _____ to _____If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

William D. Cook,
Enforcement Manager

EEOC Representative

Telephone (215) 440-2634

Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☐ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

Date

March 19, 2009

Name / Title of Authorized Official

Marie M. Tomasso,
District Director

Signature

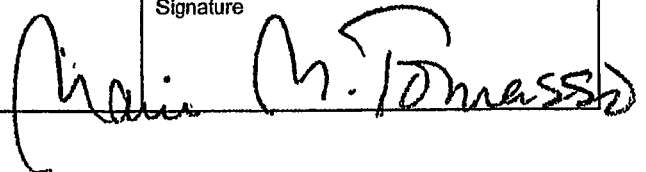


EXHIBIT 3

05/12/2010 11:04 61056 57

GALLAGHER SCHOLFIELD

PAGE 02/02

AMENDED CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		AGENCY OFPEA #EEOC	CHARGE NUMBER 530-2009-01834
Pennsylvania Human Relations Commission and EEOC			
NAME (Indicate Mr., Ms., Mrs.) Ms. Nicole Cogdell		HOME TELEPHONE (Include Area Code) [REDACTED]	
STREET ADDRESS [REDACTED]		CITY, STATE AND ZIP CODE [REDACTED]	DATE OF BIRTH [REDACTED]
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (if more than one list below.)			
NAME: The Wet Seal, Inc.	NUMBER OF EMPLOYEES, MEMBERS 500 or more	TELEPHONE NUMBER (Include Area Code) [REDACTED]	
STREET ADDRESS 160 North Gulph Road	CITY, STATE AND ZIP CODE King of Prussia, PA, 19460	COUNTY Montgomery	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE		DATE DISCRIMINATION TOOK PLACE EARLIEST 2/10/09 LATEST 3/1/09 CONTINUING ACTION	
THE PARTICULARS ARE: <p>I am a Black female with significant retail marketing experience. I was hired by Respondent as a Store Manager at its Springfield, PA location on 11/10/08. On 1/2/09, I was promoted to Store Manager for King of Prussia and I simultaneously ran both stores for approximately a month and a half before solely concentrating on King of Prussia. I had no performance deficiencies.</p> <p>February, after visiting the King of Prussia store, Respondent's Senior Executive Management issued a directive complaining about the number of Black employees; they said the King of Prussia store looked great but I was "wrong" for the store (I believe this was a reference to my race). Shortly thereafter, I was told to discharge Black employees and hire white employees. Instead, I tried to transfer my Black employees to another store (Springfield) so as not to fire them. I transferred Cassie (white) and Kathleen (white) over to King of Prussia. District Director Cristina Sanchez told me to set up interviews solely based on hiring whites (race). On March 3, 2009, I was given my termination notice (given two weeks) by Cristina Sanchez. I believe she was instructed to terminate me because of my race, black, and because I was trying to save the jobs of Black employees. I filed a charge immediately.</p> <p>After I told Wet Seal HR that I had filed a charge of discrimination, they said they would "take care" of the situation and asked me to return to work at the King of Prussia store. I returned on March 20, 2009. As soon as I arrived for work, I was approached by Black employees who reported they were being terminated based on race. I finished out my work day and then resigned because I could not work in an environment where senior management made decisions based on race, and where they had not taken steps to halt discrimination against these employees after they promised to fix the problems. My replacement was white. I believe she was less qualified than me, but was paid more.</p> <p>I believe that in violation of Title VII of the Civil Rights Act of 1964, as amended, and the PHRA, I have suffered hostility, discrimination, termination and constructive discharge on the basis of my race, black. I believe a class of blacks (District-wide and perhaps nationally) has been denied hire or terminated because of race-based decisions. I request that the EEOC conduct an investigation on behalf of me and all other similarly-situated employees or potential employees.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (when necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct. Date: _____ Charging Party (signature) <i>Nicole Cogdell</i>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: _____ (day, month and year)	

EXHIBIT 4



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office

801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Philadelphia Status Line: (866) 408-8075
Philadelphia Direct Dial: (215) 440-2602
TTY (215) 440-2610
FAX (215) 440-2632, 2848 & 2604

CHARGE NUMBER: 530-2009-01834

Ms. Nicole Cogdell



11/29/12

vs.

Wet Seal, Inc.
26972 Burbank Drive
Foothill Ranch, CA 92610

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the above-cited charge. All requirements for coverage have been met under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

Charging Party alleges that because of her race (Black) she was subjected to harassment and a hostile work environment. Charging Party alleges that because of the harassment, she constructively discharged her employment. Charging Party further alleges that Respondent replaced her with a white female, who was less qualified and paid a higher salary.

Charging Party was re-hired with Respondent on November 10, 2008 as a Store Manager in its Springfield, PA store. In February 2009, Respondent's Regional Director, officially assigned her to the position of Store Manager in the King of Prussia location. Charging Party alleged that on March 3, 2009, she saw an email in which Barbara Bachman, former Sr. Vice President of Operations, drafted summarizing the results of her store visits. In Bachman's memo she referenced the King of Prussia store as having too many African Americans, which was problematic, and concluded that Charging Party was not "right" for the store. On March 4, 2009, Charging Party called Barbara Arneklev, former Vice President of Human Resources, to complain about Ms. Bachman's comments and expressed concern that Respondent was considering Charging Party's termination. Because of these events, Charging Party went on medical leave. Ms. Arneklev assured Charging Party her job was safe and instructed her to return to her assigned store at the completion of her medical leave.

Charging Party returned to work on March 20, 2009. Upon her return, African American employees approached her to report they were being terminated because of race. On the same day, Charging Party resigned in protest of the terminations and having to address the numerous

discrimination concerns of her employees. She alleges that her replacement was white, with less experience and paid a higher salary.

Respondent denies the charges and states that Cogdell resigned her position and, thus, there has been no adverse employment action. Respondent states it originally hired Charging Party in September 2002 and she resigned in January 2003 for unknown reasons. It further contends that Charging Party's race was not an issue since she was re-hired in November 2008. Respondent contends that on January 2, 2009, the Regional Director, Meghan Davey, transferred Charging Party to King of Prussia, a higher volume store with underperforming sales, without Respondent's approval. With respect to the Bachman e-mail, Respondent failed to address the issue in its position statement. However, during the August 10, 2010 deposition, Bachman averred that she wrote the memo to stress the importance of having diversity in all stores.

With respect to the wage issue, Respondent stated it hired Nicole Moser on March 23, 2009 to replace Charging Party. Respondent contends that it paid Moser a higher salary because of her experience as a District Manager and that she held a store manager position earning a salary of \$54,800 in a different retail environment that was significantly larger than Wet Seal. Therefore, she was offered a job with Respondent at a salary of \$48,999.12.

An analysis of documental and testimonial evidence reveal that corporate managers have openly stated they wanted employees who *had "the Armani look, were white, had blue-eyes, thin, and blond in order to be profitable."* A review of the e-mail Ms. Bachman distributed after conducting store visits in the Maryland and Philadelphia markets, stated the following: Global Issues: *"Stores Teams- need diversity African Americans dominate – huge issue."* Bachman proceeded to give her observations of individual stores. Under [Wet Seal] King of Prussia, Bachman wrote, *"Store Manager is not right for this store-she has been in this store for a month!"*

A review of Charging Party's employment record during her five-month employment shows she demonstrated outstanding performance and her store sales and shrinkage records exceeded standards. Charging Party's Regional Director and District Manager described her as having great energy, strong ability to hold all members of management accountable around payroll, shipment processing and placement, backroom and sales floor standards. Further records show that under Charging Party's leadership, the King of Prussia store received high ratings and positive feedback from the Field Visual Manager and Loss Prevention Manager. Under Charging Party's supervision, the records show the King of Prussia store ranked Number 8 in the company.

A review of Ms. Bachman's personnel file revealed that in previous years, Respondent warned her about making discriminatory remarks about males that ultimately resulted in a gender discrimination complaint. However, Respondent retained Ms. Bachman in high-level management positions with supervisory authority. With respect to the memo that generated the instant charge, Ms. Bachman only received a written warning but no further action was imposed to prevent such conduct from arising in the future. Ms. Bachman voluntarily resigned in Year 2011.

With respect to Charging Party's constructive discharge claim, The Supreme Court held, to establish "constructive discharge" in a hostile environment claim the [Charging Party] must prove that she was the victim of a hostile work environment and that "the abusive working environment became so intolerable that her resignation qualified as a fitting response."

In the instant charge, the evidence demonstrates that Charging Party was under insurmountable pressure following the corporate visit in February 2009. The material facts of the case reveals, Barbara Harris, Vice President of Operations, instructed Sanchez to demote Charging Party and transfer her back to the Springfield location, which is a lower volume store. Respondent failed to proffer a legitimate business reason to justify transferring Charging Party to a lower volume store but for the fact, she was an African American.

Witness interviews corroborate Charging Party's claims that she was upset at the prospect of Respondent terminating African American employees in King of Prussia based on Bachman's assessment that African American dominance in the sales force was a "huge issue". Charging Party faced further humiliation to know corporate officials considered her as not being "right" for King of Prussia despite her glowing performance as its store manager. Witness interviews revealed that Bachman never expressed diversity concerns in stores with a predominantly White sales force but encouraged it because the sales force mirrored the community.

Charging Party complained to Human Resources about the discriminatory e-mail and comments but no corrective action was taken. Thus, Charging Party went on a medical stress leave due to the stressful working conditions. Upon her return to work, African American employees bombarded Charging Party with concerns of ongoing race discrimination and possible terminations over which she had no control. Respondent's failure to take effective remedial and corrective action to address the egregious managerial conduct of Bachman and other corporate officials, created a stressful and hostile working environment for Charging Party coupled with the fact, she was employed with a company where managers were instructed to make employment decisions based on race.

Based on this analysis I have determined that the evidence obtained during the investigation establishes a violation of Title VII in that Charging Party was subjected to a hostile work environment and the conditions were so intolerable, her only recourse was to resign. No finding is made with respect to any remaining issues.

Upon finding that there is reason to believe that a violation has occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. In this regard, conciliation of this matter has now begun. Please be advised that upon receipt of this finding, any reasonable offer to resolve this matter will be considered. The Commission may seek an amount inclusive of the applicable cap to Respondent's organization for compensatory and punitive damages and actual monetary losses incurred by the Charging Party.

A Conciliation Agreement will be mailed with a demand to include actual and compensatory and/or punitive damages, if any; and, if appropriate attorney fees and costs which have accrued

to date. Again, the Commission's is postured to consider any reasonable offer during this period. If an offer has not been previously submitted, Respondent is requested to accept, reject, or submit a counteroffer within 15 days of its receipt of the conciliation proposal, which will be forthcoming shortly separately. The confidentiality provisions of the statute and Commission's Regulations apply to information obtained during conciliation.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

On Behalf of the Commission:

A handwritten signature in black ink, appearing to read 'S. H. Lewis', is written over a horizontal line.

Spencer H. Lewis
District Director

11/26/2012

Date

Cc: Nancy DeMis, Esquire
Counsel for Charging Party

Nancy Abell, Esquire
Counsel for Respondent

EXHIBIT 5

10/05/2012 12:51

6105658257

GALLAGHER SCHOENFELD

PAGE 03/04

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		AGENCY EEOC	CHARGE NUMBER 530-2013-00151
Pennsylvania Human Relations Commission and EEOC			
NAME (Indicate Mr., Ms., Mrs.) Kai Hawkins		HOME TELEPHONE (Include Area Code) [REDACTED]	
STREET ADDRESS [REDACTED]		CITY, STATE AND ZIP CODE [REDACTED]	
DATE OF BIRTH [REDACTED]			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (if more than one list below.)			
NAME: The Wet Seal, Inc.		NUMBER OF EMPLOYEES, MEMBERS 500 or more	TELEPHONE NUMBER (Include Area Code) 949-699-3900
STREET ADDRESS Store: Cherry Hill Mall, Haddonfield Road at Kaighns Avenue, Cherry Hill NJ 08002 HQ: 26972 Burbank Foothill Ranch, California 92610.		CITY, STATE AND ZIP CODE Camden, NJ Orange County, CA.	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE: <p>I believe I have been discriminated against on account of my race (African-American) and color (black). This discrimination is part of a pattern or practice and policy of discrimination against African-American and black employees and former employees of Wet Seal as follows:</p> <p>I began working for WET SEAL in around July 2002 at the Plymouth Meeting Pennsylvania store. I was promoted to Store Manager (SM) within several months. In 2003 and 2004, I effectively managed WET SEAL stores in California. I returned to the Philadelphia region in 2004, where I had been promised a "high profile" store such as King of Prussia (KOP). Instead, I was assigned to the Gallery Store at Market East in Philadelphia, a lower volume store with a larger percentage of minority shoppers. I repeatedly requested transfer to KOP or another better-ranked store. African American management employees were almost exclusively limited to positions in lower volume, lower profile stores with higher minority customers, and were much less likely to be placed in better malls or those with largely white customer bases.</p> <p>In 2008, I was assigned to manage the Cherry Hill New Jersey store, which has a larger percentage of minority shoppers than KOP. The Cherry Hill store was visited by CEO Ed Thomas (white), and VPs Barbara Harris (white) and Barbara Bachman (white) in or around late 2008. Around Feb/March, 2009, Philadelphia District Manager ("DM") Cristina Sanchez told me that I was required to "diversify" my team by hiring more white employees within thirty days, or I would be terminated. At around the same time, Sanchez forwarded an email from Bachman saying African American dominance on store was a "huge issue." I did not follow the order to "diversify" the store team, which would have meant terminating employees based on race.</p> <p>No time during my employment with WET SEAL did I receive any training regarding equal opportunity policies or procedures. Although African-American employees were hired for seasonal and other work, they were subjected to discipline and termination at a higher rate than other employees. Some African-American employees were terminated because of their race. For example, Sanchez was visibly upset when she terminated K. Benson (African American). Sanchez said she was ordered to terminate Benson by VP Barbara Bachman (white), because Bachman did not like Benson's "look." Benson was a good worker who did not deserve to be terminated.</p> <p>In September 2009 a new DM took over the Philadelphia district, Monya Vuletic (white). Contrary to usual Wet Seal practice, Vuletic made hiring decisions for the Cherry Hill store. She rejected without explanation a qualified African-American candidate I recommended and selected a less qualified white applicant for Assistant Manager under me without even consulting me. Shortly after Vuletic became DM, she gave me a written discipline for shrink, even though the audit included a period before I began to work in her store, and Wet Seal sensor tags did not work in the Cherry Hill mall. I protested the discipline to HR but never got a response. During my last two years of employment at WET SEAL I received no review and no raise. I believe white Store Managers received performance reviews and raises during this period. In 2010, I was one of only two African-American Store Managers in the Philadelphia District; the other black store manager was in the "urban" Gallery location I had had previously managed. I was terminated in February 2010 by DM Vuletic, without following Wet Seal's progressive discipline policy. She said it was because of high shrink. My termination was because of my race, and because I did not carry out instructions to change the racial makeup of my store team. The Cherry Hill shrink figures had improved since I took over as Store Manager and were continuing to improve. Also, prior to my termination, an Asian Co-Manager from the Cherry Hill store was promoted to manage an Arden B. store. WET SEAL policy was that managers in high shrink stores were not eligible for promotion or transfer, so either the standards were different for non-African American managers, or the Cherry Hill store was not really experiencing high shrink.</p> <p>After my termination, I could not find a job until November 2011. I believe that Wet Seal failed to provide a fair reference to potential employers, in retaliation for my objecting to discrimination.</p> <p>I am part of the same class, and subject to the same, ongoing pattern or practice and policy of discrimination and retaliation, as alleged in numerous pending EEOC charges of discrimination against Wet Seal, including the charges of Nicole Cogdell (530-2009-01834), Myriam Sainthilaire (530-2009-01836) and Katie Benson (530-2009-1933), all filed in March, 2009. The filing of these class charges tolled the limitations period for the filing of similar charges. Accordingly, my charge is timely. I make this charge on my own behalf and of behalf of all others similarly situated.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (when necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (day, month and year)	
Date: 10/11/12 Charging Party (signature) [Signature]			

2012 OCT -5 P 1:27
 RECEIVED EEOC
 PHILADELPHIA, D.O.

EXHIBIT 6

EEOC Form 6 (10/1)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Reported To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

530-2009-01836

Pennsylvania Human Relations Commission

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Myriam Saintthilaire

Home Phone (Incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WET SEAL

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(610) 768-0331

Street Address

City, State and ZIP Code

160 North Gulph Road, King Of Prussia, PA 19460

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

02-13-2009 **02-13-2009**
2-2008

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Respondent as an Asst. Store Manager at its King of Prussia location in 01/2007. In 2007, I was falsely written up by Melissa Khan, Asst. Store Mgr., (race=white) for not attending the meeting. In February of 2009, I was written up by Christina Sanchez (Hispanic), District Manager, for not "Figure 8-ing" loss prevention issues. It was a rule we never used/practiced at King of Prussia. On February 13, 2009, I was fired by Christina for not attending the front while I was doing fitting room, shipment and "go-back" with the new associate. Christina told me a manager came in the store and was not greeted and also my pay raise was an issue. I believe the reason for my termination was my race, black.

I believe that in violation of Title VII of the Civil Rights Act of 1964, as amended, I have been terminated on the basis of my race, black. I believe a class of blacks (District-wide and nationally) have been denied hire or terminated because of their race, black. Barbie (race=white), President's Edward Johnson's Asst., told Kim DeFelice (store mgr, race=white) that they need to hire more people who look like Leslie (white, tall blonde) and "maybe we will be profitable". [redacted] (black) applied and Melissa said we could not hire her because she was black and we were not allowed to hire blacks. Another associate referred a friend and Melissa told her that she could not hire any more black people. Melissa told me (on several occasions) that we could not hire black employees as "we need diversity". These hiring issues were in Dec., 2008.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Mar 04, 2009

Date

Charging Party Signature

EEOC FORM 131 (5/01)

U.S. Equal Employment Opportunity Commission

PERSON FILING CHARGE

Ms. Barbara Amekiez
V.P. of Human Resources
WET SEAL
26972 Burbank
Foothill Ranch, CA 92610

Myriam Sainthilaire

THIS PERSON (check one or both)



Claims To Be Aggrieved



Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

530-2009-01836

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:



Title VII of the Civil Rights Act



The Americans with Disabilities Act



The Age Discrimination in Employment Act



The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☒ No action is required by you at this time.
2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.
3. ☐ Please provide by _____ a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by _____ to _____

If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

William D. Cook,
Enforcement Manager

EEOC Representative

Telephone (215) 440-2634

Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☐ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

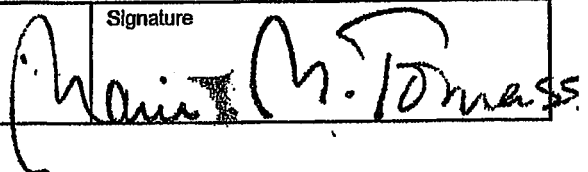
Date

March 19, 2009

Name / Title of Authorized Official

Marie M. Tomasso,
District Director

Signature



1 **CERTIFICATE OF SERVICE**

2 I, Nate Jenkins, declare:

3 My business address is 476 9th Street, Oakland, California, 94607. I am over
4 the age of 18 years and not a party to the above-entitled action.

5 On January 9, 2013, I served:

6 **FIRST AMENDED COMPLAINT**

7 on the persons listed below by e-mail, addressed as follows:

8 NANCY L. ABELL

9 nancyabell@paulhastings.com

10 HOLLY R. LAKE

hollylake@paulhastings.com

11 LISA M. PAEZ

12 lisapaez@paulhastings.com

PAUL HASTINGS LLP

13 515 South Flower Street, Twenty-Fifth Floor

14 Los Angeles, CA 90071-2228

15 JAMES P. CARTER

16 jamescarter@paulhastings.com

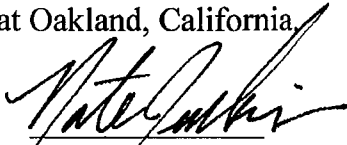
PAUL HASTINGS LLP

17 695 Town Center Drive, Seventeenth Floor

18 Costa Mesa, CA 92626

19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed on January 9, 2013 at Oakland, California.

21 
22 Nate Jenkins
23