

**United States District Court  
for the District of Columbia**

United States Courthouse  
333 Constitution Ave., N.W.  
Washington, DC 20001

Nancy M. Mayer-Whittington  
Clerk

June 13, 2001

01 JUN 16 PM 4:02  
Telephone  
(202) 354-3000  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

United States District Court  
Clerk's Office  
for the Northern District of Alabama  
140 Hugo L. Black US Courthouse  
1729 Fifth Avenue North  
Birmingham, Alabama 35203

CV-01-AR-1536-8

Re: 1:00-cv-02886 HAMPTON v. SEC, DEPT OF VA

Dear Clerk:

On 03/15/01, this Court signed an order transferring the above-entitled case to your Court. Enclosed is a copy of that order together with our case file and a certified copy of the docket entries. (We do not normally transfer our case file for at least 20 days after the date of the transfer order.)

Please promptly acknowledge receipt of our file on the duplicate copy of this letter. Please indicate your case number somewhere on the receipt.

Yours truly,

NANCY MAYER-WHITTINGTON  
Clerk

By: Tawana Davis  
Deputy Clerk

cc: Everalld Fitzgerald Thompson  
Scott Sutherland Harris

Enclosure(s)

1

U.S. District Court  
USDC District of Columbia (Washington)

CIVIL DOCKET FOR CASE #: 00-CV-2886

TRANSF TYPE H  
CLOSED

01 JUN 18 PM 4:03

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

Filed: 12/01/00

HAMPTON, et al v. SEC, DEPT OF VA  
Assigned to: Judge Henry H. Kennedy  
Demand: \$10,000,000  
Lead Docket: None  
Dkt# in other court: None

Nature of Suit: 442  
Jurisdiction: US Defendant

Cause: 42:2003 Job Discrimination  
Case type: 1. civil 2. null

CV-01-AR-1536-S

GEORGIA GRAY HAMPTON  
plaintiff

Everald Fitzgerald Thompson  
FTS 237-8870  
Suite 404  
[COR LD NTC ret]  
4201 Connecticut Avenue, NW  
Washington, DC 20008  
AREA CODE (202)

United States District Court  
for the District of Columbia  
A TRUE COPY

NANCY MAYER-WHITTINGTON, Clerk

By T. Davis  
Deputy Clerk

DORIS BLUE  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

PATRICIA BELTON  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

BYRON CLARK  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

LAURIE DUNCAN  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

KATHLEEN DUNCAN  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

SANDRA GARDNER  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

MICHAEL JOHNSON  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

MALINDA MORROW-KITCHINGS  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

GRACE MIMS  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

DEBRA J. PRUITT  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

GERTRUDE M. SANDERS  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

KATHRYN J. SHIRLEY  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

DEVIN WHITE  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

MARY S. WILLIAMS, individually  
and on behalf of all others  
similarly situated  
plaintiff

Everald Fitzgerald Thompson  
(See above)  
[COR LD NTC ret]

v.

SECRETARY, DEPARTMENT OF  
VETERANS AFFAIRS/VETERANS  
AFFAIRS MEDICAL CENTER  
federal defendant

Scott Sutherland Harris  
FTS 307-0338  
202-305-0955 FAX  
10th Floor  
[COR LD NTC gvt]  
U.S. ATTORNEY'S OFFICE  
Judiciary Center Building  
555 Fourth Street, NW

Proceedings Include All Even

TRANSF

1:00cv2886 HAMPTON, et al v. SEC, DEPT OF VA

TYPE H

CLOSED

Washington, DC 20001

AREA CODE (202)

- 12/1/00 1 COMPLAINT filed by plaintiffs GEORGIA GRAY HAMPTON, DORIS BLUE, PATRICIA BELTON, BYRON CLARK, LAURIE DUNCAN, KATHLEEN DUNCAN, SANDRA GARDNER, MICHAEL JOHNSON, MALINDA MORROW-KITCHINGS, GRACE MIMS, DEBRA J. PRUITT, GERTRUDE M. SANDERS, KATHRYN J. SHIRLEY, DEVIN WHITE, and MARY S. WILLIAMS (bm) [Entry date 12/05/00]
- 12/1/00 -- SUMMONS (3) issued to federal party federal defendant SEC, DEPT OF VA , and non-parties: U.S. Attorney and U.S. Attorney General. (bm) [Entry date 12/05/00]
- 1/12/01 2 RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed on 1/12/01 upon federal defendant SEC, DEPT OF VA (tb) [Entry date 01/22/01]
- 1/12/01 3 RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed upon U.S. Attorney General on 1/12/01 (tb) [Entry date 01/22/01]
- 1/12/01 4 RETURN OF SERVICE/AFFIDAVIT of summons and complaint executed upon U.S. Attorney on 1/12/01 (tb) [Entry date 01/22/01]
- 2/22/01 5 ATTORNEY APPEARANCE for federal defendant SEC, DEPT OF VA by Scott Sutherland Harris (dcn) [Entry date 02/23/01]
- 3/9/01 6 MOTION (UNOPPOSED) filed by federal defendant SEC, DEPT OF VA to transfer case to the USDC for the Northern District of Alabama, and to extend time to thirty days to answer complaint [1-1] (hsj) [Entry date 03/13/01] [Edit date 03/13/01]
- 3/15/01 7 IMG ORDER by Judge Henry H. Kennedy : granting motion to transfer case to the USDC for the Northern District of Alabama [6-1] by SEC, DEPT OF VA transferring case to the Northern District of Alabama (N) (dcn)
- 6/13/01 -- ORIGINAL FILE and certified copy of docket entries and Order transmitted to Clerk of USDC for Northern District of Alabama pursuant to order dated 3/15/01 (td)



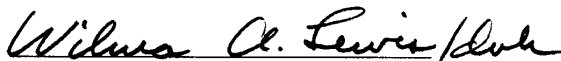


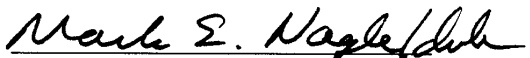
... the employment records relevant to such practice are maintained and administered, ... [and] the aggrieved person[s] would have worked but for the alleged unlawful employment practice." See 42 U.S.C. § 2000e-5(f)(3).


Defendant requests an enlargement of time in which to answer or otherwise respond to the complaint so that counsel for Defendant at the Office of the United States Attorney for the Northern District of Alabama will have adequate time to prepare a response once this case is transferred. In addition, in the unlikely event that the Court declines to transfer the case, undersigned counsel for Defendant will require additional time in which to file an answer or other response to the complaint.

Undersigned counsel for Defendant spoke with Mr. Everald Thompson, counsel for Plaintiffs, who indicated that they have no opposition to this motion. A proposed order is also filed herewith.

Respectfully submitted,

  
WILMA A. LEWIS, DC Bar No. 358637  
United States Attorney

  
MARK E. NAGLE, DC Bar No. 416364  
Assistant United States Attorney

  
SCOTT S. HARRIS, DC Bar No. 449037  
Assistant United States Attorney  
555 Fourth Street, N.W.  
Washington, D.C. 20001  
(202) 307-0338



CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of March, 2001, I caused a copy of the foregoing to served upon the following via first class mail, postage prepaid:

Everald F. Thompson  
4201 Connecticut Avenue, N.W.  
Suite 404  
Washington, D.C. 20008

  
\_\_\_\_\_  
Scott S. Harris

ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

GEORGIA GRAY HAMPTON, DORIS BLUE, )  
PATRICIA BELTON, BYRON CLARK, )  
LAURIE DUNCAN, KATHLEEN DUNCAN, )  
SANDRA GARDNER, MICHAEL JOHNSON, )  
MALINDA MORROW-KITCHINGS, )  
GRACE MIMS, DEBRA J. PRUITT, )  
GERTRUDE M. SANDERS, )  
KATHRYN J. SHIRLEY, DEVIN WHITE, )  
MARY S. WILLIAMS, individually, and on )  
behalf of all others similarly situated, )

Plaintiffs, )

v. )

SECRETARY, )  
DEPARTMENT OF VETERANS AFFAIRS/ )  
VETERANS AFFAIRS MEDICAL CENTER )  
BIRMINGHAM, AL )

Defendant. )

FILED

FEB 22 2001


CLERK, U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA  
~~None referred to~~  
~~See Doc#~~

Civil Action No. 00-2886 (HHK)

PRAECIPE

The Clerk of the Court will please enter the appearance of Assistant United States Attorney Scott S. Harris as counsel for defendant in the above-captioned case.

Respectfully submitted,

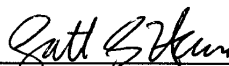
  
SCOTT S. HARRIS  
Assistant United States Attorney  
555 4th St., N.W. Room 10-441  
Washington, D.C. 20001  
202-307-0338

**CERTIFICATE OF SERVICE**

I certify that the foregoing Praeceptum was served upon plaintiffs by depositing a copy of it in the U.S. Mail, first class postage prepaid, addressed to:

Everald F. Thompson, Esq.  
4201 Connecticut Ave., N.W.  
Suite 404  
Washington, D.C. 20008

on this 22<sup>nd</sup> day of February 2001.



---

SCOTT S. HARRIS, DC Bar #449037  
Assistant United States Attorney  
555 4th St., N.W. Room 10-441  
Washington, D.C. 20001  
202-307-0338

# United States District Court

DISTRICT OF District of Columbia

*Georgia Hampton, et al*

## SUMMONS IN A CIVIL CASE

v.

*Secretary  
Department of the  
Veterans Affairs*

CASE NUMBER 1:00CV02886

JUDGE: Henry H. Kennedy

DECK TYPE: EEOC

DATE STAMP: 12/01/2000

**FILED**

**JAN 12 2001**

TO: (Name and address of defendant)

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

**U.S. Attorney  
555 4th St. NW  
Washington DC 20001**

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

*Everald F. Thompson  
4201 Connecticut Avenue, N.W.  
Suite 404  
Washington, DC 20008*

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**NANCY MAYER-WHITTINGTON**

CLERK

*Dorinda Selover*

(BY) DEPUTY CLERK

**DEC 01 2000**

DATE

DISTRICT  
U.S. DISTRICT  
COURT  
N. MAYER

**JAN 12 2 53 PM '01**

RECEIVED

4

Case 2:01-cv-01536

RETURN OF SERVICE

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE <u>1/12/01</u>
NAME OF SERVER (PRINT) <u>Clement A. Stoltz</u>	TITLE <u>INVESTIGATOR</u>

Check one box below to indicate appropriate method of service

- Served personally upon the defendant. Place where served: \_\_\_\_\_
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left: Mrs. Iole Jenkins
- Returned unexecuted: \_\_\_\_\_
- Other (specify): \_\_\_\_\_

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 1/12/01 Date Clement A. Stoltz Signature of Server

230 R.I. AVE N.E. #315  
Address of Server

WDC 20002

Kathleen M. Mayhew  
Clerk of Court

AO 110 (Rev. 10-97) Summons in a Civil Action

United States District Court  
DISTRICT OF District of Columbia

Georgia Hampton, et al

SUMMONS IN A CIVIL CASE

v.

Secretary  
Department of the  
~~Veterans~~ ~~Affairs~~  
Affairs

CASE NUMBER 1:00CV02886

JUDGE: Henry H. Kennedy

DECK TYPE: EEOC

DATE STAMP: 12/01/2000

FILED

JAN 12 2001

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

TO: (Name and address of defendant)

U. S. ATTORNEY GENERAL  
D.O.J.  
950 PENNSYLVANIA AVE. NW  
WASHINGTON, D.C. 20530

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Eve Rald F. Thompson  
4201 Connecticut Avenue, N.W.  
Suite 404  
Washington, DC 20008

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

NANCY MAYER-WHITTINGTON

CLERK

*Delia Storm*  
(BY) DEPUTY CLERK

DEC 01 2000  
U.S. DISTRICT COURT  
N. MAYER

DATE 10:44:53 PM 12/01/00

RECEIVED

**RETURN OF SERVICE**

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE
NAME OF SERVER (PRINT) <i>Clement A. Stokes III</i>	<i>1/12/01</i> TITLE <i>INVESTIGATOR</i>

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: \_\_\_\_\_

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: *MR. GRAY*  
*AT D.O.J. SPECIAL MESSAGE CENTER*

Returned unexecuted: \_\_\_\_\_

Other (specify): \_\_\_\_\_

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on *1/12/01*  
Date

*Clement A. Stokes III*  
Signature of Server  
*230 R.I. AVE, N.E. #315 WDC*  
Address of Server  
*20002*

*Mrs. M. Meyer*  
Clerk of Court

934 01 11 2001

*MR. GRAY*

United States District Court  
DISTRICT OF District of Columbia

Georgia Gray Hampton,  
et al, individually, and on  
behalf of all others similarly  
situated  
v.

Secretary,  
DEPARTMENT OF VETERANS  
AFFAIRS

SUMMONS IN A CIVIL CASE

CASE NUMBER 1:00CV02886

JUDGE: Henry H. Kennedy

DECK TYPE: EEOC

DATE STAMP: 12/01/2000

**FILED**

**JAN 12 2001**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

TO: (Name and address of defendant)

Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, DC 20420

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Everald F. Thompson, PC  
4201 Connecticut Avenue, N.W.  
Suite 404  
Washington, DC 20008

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

NANCY MAYER-WHITTINGTON

CLERK

*Delinda Simon*

(BY) DEPUTY CLERK

DEC 01 2000  
U.S. DISTRICT COURT  
N. MAYER  
JAN 12 7 52 PM '01  
RECEIVED



**RETURN OF SERVICE**

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE <u>1/12/01</u>
NAME OF SERVER (PRINT) <u>Clement A. Stokes III</u>	TITLE <u>INVESTIGATOR</u>
Check one box below to indicate appropriate method of service	

- Served personally upon the defendant. Place where served: \_\_\_\_\_
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left: MRS. ALECIA GILES
- Returned unexecuted: \_\_\_\_\_
- Other (specify): \_\_\_\_\_

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 1/12/01 Date

Clement A. Stokes III Signature of Server

230 R.I. AVE NE #315 WDC Address of Server  
20002

Angela V. Mayberry  
Clerk of Court

<sup>1</sup> If you serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

DEC 01 2000

~~MANCINI, DEBRA J. / BYRON CLARK / CLERK / U.S. DISTRICT COURT~~

GEORGIA GRAY HAMPTON, DORIS BLUE  
PATRICIA BELTON, BYRON CLARK,  
LAURIE DUNCAN, KATHLEEN DUNCAN,  
SANDRA GARDNER, MICHAEL JOHNSON,  
MALINDA MORROW-KITCHINGS, GRACE MIMS,  
DEBRA J. PRUITT, GERTRUDE M SANDERS,  
KATHRYN J. SHIRLEY, DEVIN WHITE,  
MARY S. WILLIAMS, individually, and  
on behalf of all others similarly  
situated,

CASE NUMBER 1:00CV02886

JUDGE: Henry H. Kennedy

DECK TYPE: EEOC

DATE STAMP: 12/01/2000

Plaintiffs,

v.

SECRETARY,  
DEPARTMENT OF VETERANS AFFAIRS/  
VETERANS AFFAIRS MEDICAL CENTER  
BIRMINGHAM, ALABAMA

Defendants.

---

**CLASS ACTION COMPLAINT**

**NATURE OF THE CASE**

1. This is a class action brought by 15 individual plaintiffs on behalf of themselves and other similarly situated individuals against the Secretary, Department of Veterans Affairs ("Department of Veterans Affairs"), as legal representative for the Veterans Affairs Medical Center in Birmingham, Alabama. ("VAMC"). Plaintiffs seek declaratory and injunctive relief and monetary damages to redress the Department of Veteran Affairs deprivation of the rights of

plaintiffs and the Class members under Title V11 of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, (hereafter "Title V11"), and 42 U.S.C. § 1981 and 1981A.

2. The plaintiffs are African-American employees who have suffered racially discriminatory employment policies and practices at the hands of their employer, VAMC.

The plaintiffs are qualified persons who have been denied the opportunity for promotion, who have been subjected to a hostile work environment, and/or have been retaliated against because of the VAMC'S policy and practice of racial discrimination.

3. The plaintiffs have been systematically excluded from the promotions process by, among other things, preferential treatment of less qualified Caucasians; by not being provided with job announcements; by not being provided with necessary training; and by being subjected to a hostile work environment.

4. The VAMC has consistently ignored the plaintiffs' complaints about these unlawful work conditions. The Department of Veterans Affairs is aware of numerous complaints and claims of racial discrimination in promotion, subjection of African-Americans to a hostile work environment, that have emanated from its medical center in Birmingham, Alabama.

5. The discrimination experienced by the plaintiffs and the Class is a statistically significant pattern of discrimination unexplainable by chance.

#### JURISDICTION AND VENUE

6. This court has subject-matter jurisdiction pursuant to 42 U.S.C. 2000e-3 ,28 U.S.C. § 1331, 1343 and 1367, and 42 U.S.C. § 1981.

7. Venue lies in this district pursuant to 28 U.S.C. § 1391.

#### THE PARTIES

8. Byron Clark resides in the Birmingham, Alabama, area. Mr. Clark is an employee of defendant VAMC located in Birmingham, Alabama.

9. Plaintiff Patricia Belton resides in Birmingham, Alabama. Ms. Belton is an employee of defendant VAMC located in Birmingham, Alabama.

10. Plaintiff Doris Blue resides in Birmingham, Alabama. Ms. Blue is an employee of defendant Department of VAMC located in Birmingham, Alabama.

11. Plaintiff Laurie Duncan resides in Birmingham, Alabama. Ms. Duncan is an employee of defendant Department of VAMC located in Birmingham, Alabama.

12. Plaintiff Kathleen Duncan resides in Birmingham, Alabama. Ms. Duncan is an employee of defendant VAMC located in Birmingham, Alabama.

13. Plaintiff Sandra Gardner resides in Birmingham, Alabama. Ms. Gardner is an employee of defendant VAMC located in Birmingham, Alabama.

14. Plaintiff Georgia Gray Hampton resides in Birmingham, Alabama. She is an employee of defendant VAMC located in Birmingham, Alabama.

15. Plaintiff Michael Johnson resides in Birmingham, Alabama. Mr. Johnson is an Employee of VAMC located in Birmingham, Alabama.

16. Plaintiff Malinda Morrow-Kitchings resides in Birmingham, Alabama. Ms. Kitchings is an employee of defendant VAMC located in Birmingham, Alabama.

17. Plaintiff Grace Mims resides in Birmingham, Alabama. Ms. Mims is an employee of the VAMC located in Birmingham, Alabama.

18. Plaintiff Debra J. Pruitt resides in Birmingham, Alabama. Ms. Pruitt is an employee of defendant VAMC located in Birmingham, Alabama.

19. Plaintiff Gertrude M. Sanders resides in Birmingham, Alabama. Ms. Sanders is an employee Of VAMC, located in Birmingham, Alabama.

20. Plaintiff Kathryn J. Shirley resides in Birmingham, Alabama. Ms. Shirley is an employee of defendant VAMC located in Birmingham, Alabama.

21. Plaintiff Devin White resides in Birmingham, Alabama. Mr. White is an employee of defendant VAMC located in Birmingham, Alabama.

22. Plaintiff Mary S. Williams resides in Hueytown, Alabama. Ms. Williams is an employee of defendant VAMC located in Birmingham, Alabama.

23. Defendant VAMC is an agency of the United States Government located at 810 Vermont Avenue, N.W., Washington, D.C., 20420. It operates the VAMC in Birmingham, Alabama.

### CLASS ALLEGATIONS

24. Paragraphs 1 through 24, *supra*, are incorporated herein by reference.
25. Plaintiffs sue on their own behalf and on behalf of a class of persons pursuant to Federal Rules of Civil Procedure 23(a), (b)(2) and (b)(3).
26. The named plaintiffs bring this case on behalf of all past and current African-American workers employed by the VAMC in Birmingham, Alabama who have been or will be denied promotion, subjected to a hostile work environment, subjected to different terms and conditions of employment, and retaliated against because of the employer's pattern and practice of discriminating against African-Americans on the basis of their race ("the Class").
27. Plaintiffs seek injunctive and compensatory relief on behalf of the Class.
28. There are at least 850 Class members, residing in Birmingham, Alabama, and contiguous areas.
29. The Class is so numerous that joinder of all members is impracticable.
30. Questions of fact and law common to the Class include, among other things:
  - a. whether the VAMC located in Birmingham, Alabama has a pattern and practice of illegal discrimination based on race;
  - b. whether VAMC has intentionally engaged in this discrimination;
  - c. whether VAMC has engaged in this discrimination with malice and/or reckless indifference to the federal of plaintiffs and the Class;
  - d. whether plaintiffs and the Class have been discriminated against by being denied promotion on the basis of their race;
  - e. whether plaintiffs and the Class have been discriminated against by being subjected to a hostile work environment on the basis of their race;
  - f. whether plaintiffs and the Class have been discriminated against by

being subjected to different terms and conditions of employment on the basis of their race;

g. whether plaintiffs and the Class have been discriminated against by

being subjected to retaliation on the basis of their having opposed

VAMC's discriminatory practices/and or initiated discrimination claims

With the EEOC:

h. whether plaintiffs and the Class have suffered damages caused by

VAMC's conduct; and

i. whether injunctive relief is appropriate as a remedy for VAMC's past

and future discrimination.

31. Plaintiffs' claims are typical of the claims of the Class.

32. Plaintiffs and their counsel will fairly and adequately protect the interests of the Class.

33. VAMC has acted/refused to act and is acting/refusing to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the Class as a whole.

34. The common questions of fact and law predominate over questions affecting only individual members.

35. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

36. There are no unusual difficulties likely to be encountered in the management of this litigation as a class action.

37. Notice to the Class may be accomplished inexpensively, efficiently and in a manner best designed to protect the due process rights of all Class members by means of written notices

supplied through VAMC's system of communication with its employees.

## FACTUAL ALLEGATIONS

### *A. Defendant VAMC*

38. Approximately 700 people who work for VAMC are African-American, which amounts to 49% percent of its total work force. VAMC has perpetrated a company-wide pattern and practice of illegal discrimination against its African-American workers because of their race. Furthermore, VAMC has engaged in this discrimination intentionally and with malice and/or reckless indifference to the federal rights of its workers.

39. African-Americans who work for VAMC find it much more difficult to receive promotions than their similarly situated Caucasian coworkers. It is expected among most African-Americans at VAMC that the position (and corresponding pay and benefits) they have when they begin their career at VAMC is likely to be the same at which they leave. Company-wide, African-Americans are kept at lower-level jobs longer than other similarly situated workers, in spite of the fact that these African-American employees are qualified and apply for advancement. This phenomenon is so significant that it cannot be explained merely by chance. The experiences of the plaintiffs, shown below, are typical. African-Americans watch as worker after worker is promoted ahead of them. This disparate treatment is caused by VAMC's pattern and practice of discrimination based on race.

40. African-Americans at VAMC also find it much more difficult to receive the training necessary to compete for promotions than their similarly situated Caucasian coworkers. The experiences of the plaintiffs are typical. For example, African Americans experience difficulty in procuring approved leave to pursue educational interests, while their white counterparts appear not to have similar difficulties. This disparate treatment is caused by VAMC's pattern and practice of

discrimination based on race.

at VAMC. The

experiences of the plaintiffs are typical. African-Americans are forced to listen to racial slurs and are the subjects of crude and embarrassing remarks, they are subjected to the

severest of disciplinary sanctions, including suspensions and 'docked pay' for trivial infractions, they are denied annual and sick leave arbitrarily, they are issued written reprimands unwarrantedly, they are permanently transferred from their tours of duty based on dubious allegations, and they are made to suffer other indignities and other acts of intimidation by their co-workers, which more often than not, go unpunished. Importantly, these actions are instigated not only by coworkers, but by VAMC supervisors. Because the supervisors tacitly or openly approve of such treatment, there is little that can be done by an individual African-American to escape such harassment. This disparate treatment is caused by VAMC's pattern and practice of discrimination based on race.

41. Reports to VAMC of disparate treatment as regards promotion, training, and hostile work environment were purportedly investigated with virtually the same results: the supervisors were almost always found to have done nothing. Some African-Americans who raise concerns about discrimination are retaliated against by the company. Those remedial measures that are pursued are ineffective. In spite of official statements that VAMC supports racial diversity, the message clearly communicated to workers is that racial discrimination against African-Americans is standard operating procedure, and will not generally result in adverse employment action.

42. Senior management at VAMC are well aware that there is a company-wide pattern and practice of racial discrimination in promotion, pay and other areas. Mr. Y.C. Parris, Director of VAMC, has been contacted on numerous occasions by officials of the local union to intervene on behalf of the aggrieved blacks. However, Mr. Y.C. Parris ignores such complaints and lends his support to unwarranted and adverse actions taken by his managers against African-American employees.

43. VAMC's pattern and practice of illegal employment discrimination has persisted for decades,



and continues to the present date, both as regards the plaintiffs and the Class.

44. VAMC's pattern and practice of racial discrimination has injured plaintiffs and the Class in various ways. VAMC's failure to promote plaintiffs, subjecting them to a hostile work environment, subjecting them to different terms and conditions of employment, and retaliation have at the very least cost the plaintiffs the significant additional salary and benefits to which they are entitled. But plaintiffs injury is not limited to things appearing on a pay stub. The racial discrimination practiced by VAMC has devalued the plaintiffs by telling them they are not worth as much as Caucasians. This has caused plaintiffs an immense amount of harm, including physical and emotional pain and suffering.

45. All Class representatives are of African-American race.

46. Patricia Belton: During 1997 Ms. Belton was wrongfully charged with abuse of a patient. Although VAMC conceded that the charges could not be substantiated, plaintiff was nevertheless transferred to a less desirable unit. In contrast, a white employee was convicted of abuse of a patient and was permitted to retain her position in her duty area. Ms. Belton has exhausted her administrative remedy under Title V11 of the Civil Rights Act.

47. Doris Blue: Ms. is the current president of the local union (American Federation of Government Employees) which represents the employees of VAMC. Ms. Blue has filed numerous employment discrimination against VAMC in her individual capacity alleging harassment and retaliation, and in particular that she was being treated differently than white employees in terms of being disciplined for taking annual leave and in terms of

attendance. Ms. Blue has also represented numerous employees at various levels throughout the EEOC and grievance process within the union, as well as counseled many other employees who contemplated filing discrimination actions against VAMC. Ms. Blue has exhausted administrative remedies under Title VII of the Civil Rights Act.

48. Byron Clark: Mr. Clark began working with the VAMC in July 1994. He has a degree in Mechanical Engineer. Mr. Clark has had little or no opportunity for advancement in his department and has been denied the necessary training that would enhance his chances of earning a higher salary. Mr. Clark has been subjected to constant harassment and degrading comments about his work. Less qualified white employees in his department have been better assignments as well as training. His work environment has been racially hostile and has continued to this date.

49. Laurie Duncan: Ms. Duncan works in the Department of Audiology and Speech Pathology of the VAMC. She experienced a pattern of harassment beginning in September 1998 when a white employee beginning in September 1998 when a white male employee used his cane to hoist her skirt above her head. Although the matter was reported to management, nothing was done to ensure that she was not harassed. The male stalked her, chased her, and made derogatory comments to her. Ms. Duncan experienced fear in the workplace and was ignored when she complained to her immediate supervisor. She alleges retaliation by her supervisor. She also alleges that she is being paid a lower salary than similarly situated whites. Ms. Duncan has exhausted her administrative remedies under Title VII of the Civil Rights Act.

50. Kathleen Duncan: Kathleen is the sister of Laurie Duncan. She too was harassed by two white males who stalked and chased her leading to her reporting an assault to the police. Ms. Kathleen Duncan was transferred to a different unit, thereby placing all the burdens of the workplace harassment on the victim. The harasser remained assigned to the supervisor of the Visual Impairment Service Team, who was also accused of harassment. Kathleen was retaliated against with a suspension and failed to earn any salary increases. Kathleen has exhausted her

administrative remedies under Title VII of the Civil Rights Act.

51. Sandra Gardner: Ms. Gardner has endured many years of discrimination while working at the VAMC. Her current race discrimination complaint includes allegations of discriminatory assignments, selective disciplinary actions, and retaliation for having pursued her EEO complaint. Ms. Gardner alleges that similarly situated Caucasians are not subjected to similar treatment.

52. Georgia Gray Hampton: Ms. Hampton alleges a pattern and practice of race based harassment, including being disciplined without justification for taking sick leave; being transferred to a unit with more physically onerous duties after seeking accommodation for light duty work because of on the job injury. White employees were not similarly treated. In fact, one white employee who complained about "too much work" was moved to a less demanding unit. Because Ms. Hampton filed an EEO complaint she was retaliated against by VAMC which instituted rigorous standards if she wanted annual or sick leave and arbitrarily denied some of her requested leave.

53. Michael Johnson: During December 1997 Mr. Johnson applied for the position of Clinical Pharmacist. In January 1998 Mr. Johnson was notified that he had not been selected. In fact, a white female was selected for the job, who lacked his experience and qualifications. Mr. Johnson has a doctorate in Pharmacy, but his assignments have not been commensurate with his education. He had not even received the 1 to 5 step increase in salary to which he was entitled after completion of his doctorate degree. Mr. Johnson alleges that he has experienced harassment by his department dating back to 1995 when he filed EEO complaints. Mr. Johnson has inferred that denying him the promotional opportunity was in retaliation for the prior EEO complaints he had filed.

54. Malinda Morrow-Kitchings: Ms. Kitchen had sought promotion as a

Pharmacy Technician, however, she was denied the promotion in favor of a

White male. Ms. Kitchings alleges that race – African-American- played significant role in the decision as she was better qualified to perform the job.

55. Grace Mims: Mr. Mims was employed by the VAMC as a clerk at the GS-1 level. She is a back to work former welfare recipient. Ms. Mims went back to school and earned a B.S. degree in Business Administration. While at the VAMC she was told that she was not allowed to apply for jobs that constituted a promotional advancement because she was a GS-1 clerk. Ms. Mims alleges that similarly situated whites were not relegated indefinitely to a GS-1 position.

56. Debra J. Pruitt: Ms. Pruitt, a Registered Nurse, alleges harassment on account of her race because of the increased workload that she is required to perform. Ms. Pruitt alleges that VAMC is retaliating against her for having previously filed an EEOC complaint.

57. Gertrude M. Sanders: Ms. Sanders alleges discrimination based on race. During December 1997, she had made a request for a change in her tour of duty, as well as a request for overtime. However, these requests were denied while requests from other Caucasians were granted.

58. Kathryn J. Shirley: In July 1998, Ms. Shirley filed a formal EEO charge alleging discrimination in the manner in which she was disciplined for alleged tardiness and use of sick leave. Ms. Shirley notes that members of the Caucasian race were not subject to these harassment.

She has exhausted her administrative remedies under Title V11 of the EEOC laws.

59. Devin White: Mr. White has applied for a promotion, but was denied.

A person of the Caucasian race filled the position in April 2000. Mr. White has exhausted his administrative remedies under Title V11 of the Civil Rights Act.

60. Mary S. Williams: Ms. Williams alleges discrimination on account of her race as she was hired at a rate of GS-4/1 as opposed to GS-5/1, the rate and grade at which she should have been hired.

Whites who are similarly situated are not subjected to such reduction in pay.

Ms. Williams has exhausted her administrative remedies under Title V11 of the Civil Rights Act.

FIRST CAUSE OF ACTION:

RACIAL DISCRIMINATION IN VIOLATION OF FEDERAL LAW

61. Plaintiffs reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 61, supra.

62. VAMC has intentionally discriminated against plaintiffs and members of the Class in violation of 42 U.S.C. § 1981 et seq., and 42 U.S.C. Section 2000e, et seq., by subjecting them to different treatment on the basis of their race. VAMC has engaged in this discrimination intentionally, and/or with malice and/or reckless indifference to the rights of its aggrieved employees.

63. VAMC conduct has directly and proximately caused plaintiffs and the Class to suffer damages including but not limited to lost past and future earnings, lost benefits, emotional and physical distress, and pain and suffering, in amounts to be proven at trial, and estimated to be in the range of roughly \$10,000,000

64. An award of attorney's fees is appropriate in this case pursuant to applicable law.

SECOND CAUSE OF ACTION:

INJUNCTIVE RELIEF

65. Plaintiffs reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 64, supra.

66. Plaintiffs and the Class are entitled to an injunction restraining VAMC from illegally

discriminating against plaintiffs and the Class, and providing plaintiffs and the Class the benefits which they would have received but for VAMC's illegal discrimination.

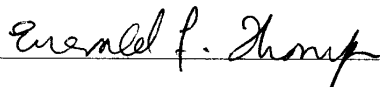
67. An award of attorney's fees is appropriate in this case pursuant to applicable law.

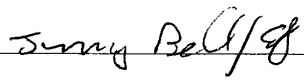
PRAYER FOR RELIEF

**WHEREFORE**, plaintiffs, on their own behalf and on behalf of the Class, pray for relief as follows:

- A. For a declaration certifying the Class;
- B. For judgment against defendant VAMC for damages, including but not limited to back and front pay, compensatory damages, emotional distress damages, pain and suffering damages;
- C. For injunctive relief restraining Boeing from illegally discriminating against plaintiffs and the Class, and providing plaintiffs and the Class the benefits which they would have received but for VAMC's illegal discrimination;
- D. For an award of attorneys' fees;
- E. For all reasonable costs and litigation expenses;
- F. For prejudgment interest; and
- G. For such other and further relief as the Court deems just and equitable.

H. *Trial BY JURY requested*  
RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of December 2000.

  
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