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10
11 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 ROBERT RAMIREZ, ROBIN BEASLEY,
SANDRA EVANS, ROBERT HARRIS,
14 LUIS POCASANGRE CARDOZA, JOSE
SALCEDO, A. SHAPPELLE
15 THOMPSON, CORETTA SILVERS
(formerly VICK), BLANCA NELLY
16 AVALOS, and AMY SEVERSON, on
behalf of themselves and all other persons
17 similarly situated,

18 Plaintiffs,

19 v.

20 CINTAS CORPORATION,

21 Defendant.

No. C 04-00281 JSW

CLASS ACTION

THIRD AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL

Complaint filed January 20, 2004

22
23 Plaintiffs Robert Ramirez, Robin Beasley, Sandra Evans, Robert Harris, Luis Pocasangre
24 Cardoza, Jose Salcedo, A. Shappelle Thompson, Coretta Silvers (formerly Vick), Amy Severson,
25 and Blanca Nelly Avalos, for themselves and all other persons similarly situated, complain of
26 defendant Cintas Corporation (“Cintas” or the “Company”) as follows.
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NATURE OF THE CASE

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2 1. This is an employment discrimination case, brought pursuant to the provisions of
3 the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991
4 (“Section 1981”); Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e, et seq., as
5 amended (“Title VII”); the California Fair Employment and Housing Act, Government Code
6 §§12940, et seq. (“FEHA”); and the California Unfair Business Practices Act, Business and
7 Professions Code §17200 et seq., also known as the Unfair Competition Law (“UCL”). Plaintiffs
8 allege that defendant Cintas has engaged in, and continues to engage in, a company-wide pattern
9 and practice of employment discrimination, both intentional and systemic, on the basis of race,
10 national origin, and sex, against themselves and a class of similarly situated African American,
11 Hispanic, and female employees, former employees, and applicants for employment as alleged in
12 this Complaint. Cintas’ discriminatory practices include, but are not limited to, discrimination in
13 recruitment, hiring, promotion, transfer, job assignment, and compensation, on a classwide basis
14 as alleged in this Complaint. Plaintiffs seek declaratory, injunctive, and equitable monetary relief
15 from these practices; compensatory and punitive damages; equitable remedies of accounting,
16 restitution and disgorgement; and an award of costs, expenses, and attorneys’ fees; all for
17 themselves individually and on behalf of the class or classes they seek to represent.

JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT

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19 2. Jurisdiction. This Court has original jurisdiction of plaintiffs’ Section 1981 claims
20 pursuant to 28 U.S.C. §§1331 and 1343(a)(4). The Court has original jurisdiction of plaintiffs’
21 Title VII claims pursuant to those two provisions as well as 42 U.S.C. §2000e-5(f)(3). The Court
22 has supplemental jurisdiction of plaintiffs’ FEHA and UCL claims pursuant to 28 U.S.C. §1367.

23
24 3. Venue. Venue is proper in this District pursuant to 28 U.S.C. §1391(c) and
25 42 U.S.C. §2000-5(f)(3). Cintas is subject to personal jurisdiction in this District in that it
26 maintains facilities and business operations in this District, employs or employed plaintiff Luis
27 Pocasangre Cardoza and members of the class in this District, and committed some of the
28 discriminatory acts alleged herein in this District.

1 4. Intradistrict Assignment. Venue is proper in the San Francisco Division of this
2 Court pursuant to Local Rule 3-2(c) - (d) because a substantial part of the events which give rise
3 to the claims asserted in this Complaint occurred in Alameda County. In particular, Cintas
4 employed plaintiff Pocasangre Cardoza and employs, employed, or rejected employment
5 applications of, other class members in its facility in San Leandro, Alameda County, California,
6 and there committed acts of discrimination in employment as alleged in this complaint.

7 PARTIES

8 5. The named plaintiffs are current and former employees, or rejected applicants for
9 employment, of defendant Cintas.

10 6. Plaintiff Luis Pocasangre Cardoza is a Hispanic male and a resident of Oakland,
11 California, within this District. He was born in El Salvador. Mr. Pocasangre Cardoza worked for
12 Cintas as a loader at its San Leandro, California facility in 2003. In or about July 2003, Cintas
13 discriminatorily refused to hire and then promote plaintiff Pocasangre Cardoza to a driver
14 position at that facility, because of his race and national origin. Mr. Pocasangre Cardoza resigned
15 on or about August 6, 2003 as a result of the discrimination. On or about November 18, 2003,
16 plaintiff Pocasangre Cardoza filed a Charge of Discrimination with the United States Equal
17 Employment Opportunity Commission (“EEOC”). On or about June 9, 2004, the EEOC issued
18 him a notice of Right to Sue on that Charge. Copies of that Charge and Notice are attached to this
19 complaint as Exhibits 1A and 1B, respectively.
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21 7. Plaintiff Robert Ramirez is a Hispanic male and a resident of Las Vegas, Nevada.
22 He was born in Mexico. Mr. Ramirez worked for Cintas in its Las Vegas, Nevada facility as a
23 driver and production supervisor from on or about July 6, 1992 until his termination in or about
24 July 2003. Because of his race and national origin, Cintas reduced Mr. Ramirez’s pay in 2000,
25 denied him pay raises and promotions between 2002 and 2003, and ultimately terminated him in
26 or about July 2003. On or about November 18, 2003, plaintiff Ramirez filed a Charge of
27 Discrimination with the EEOC. On or about June 7, 2004, the EEOC issued Mr. Ramirez a
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1 Notice of Right to Sue on his Charge. Copies of that Charge and Notice are attached as Exhibits
2 2A and 2B, respectively.

3 8. Plaintiff Robin Beasley is an African American female and a resident of Grand
4 Rapids, Michigan. Ms. Beasley was employed by Cintas from on or about September 20, 2002 to
5 July 7, 2003, at the Kentwood, Michigan facility, working in the stockroom. Ms. Beasley was
6 terminated by Cintas on or about July 7, 2003 because of her race. On or about November 18,
7 2003, plaintiff Beasley filed a Charge of Discrimination with the EEOC. On or about June 9,
8 2004, the EEOC issued her a Notice of Right to Sue on her Charge. Copies of that Charge and
9 Notice are attached as Exhibits 3A and 3B, respectively.

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11 9. Plaintiff Sandra Evans is an African American female and a resident of Brookside,
12 Pennsylvania. From on or about March 2002 to the present, Ms. Evans has worked for Cintas in
13 the stockroom at its Aston, Pennsylvania facility, applying emblems to uniforms. In or about
14 April 2002, Cintas hired a white employee to work in a comparable position in the stockroom and
15 paid her a higher hourly wage than plaintiff Evans. Cintas paid, and continues to pay, Ms. Evans
16 a lower hourly wage than the white coworker because of Ms. Evans' race. On or about
17 November 17, 2003, plaintiff Evans filed a Charge of Discrimination with the EEOC. A copy of
18 that Charge is attached as Exhibit 4. Ms. Evans intends to request a Notice of Right to Sue
19 promptly after the EEOC has had time to investigate her Charge.

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21 10. Plaintiff Robert Harris is an African American male and a resident of Rochester,
22 New York. He was employed by Cintas as a loader in its Rochester, New York facility from in or
23 about April or May 2003 to October 2003. Because of his race, Cintas refused to hire plaintiff
24 Harris as a driver in or about April or May 2003, refused to promote him to the position of driver
25 after hiring him as a loader, and terminated him on or about October 9, 2003. On or about
26 November 18, 2003, plaintiff Harris filed a Charge of Discrimination with the EEOC. On or
27 about May 21, 2004, the EEOC issued him a Notice of Right to Sue on his Charge. Copies of
28 that Charge and Notice are attached as Exhibits 5A and 5B, respectively.

1 11. Plaintiff Jose Salcedo is a Hispanic male and a resident of Freeport, New York.
2 He was born in the Dominican Republic. He was employed by Cintas at its Central Islip, New
3 York facility as a production supervisor from in or about November 1999 to October 2002.
4 Because of his race and national origin, Cintas denied plaintiff Salcedo promotion to the position
5 of plant manager in or about March 2002, reassigned him to a less desirable shift in or about June
6 2002 and terminated him on or about October 9, 2002.

7 12. Plaintiff A. Shappelle Thompson is an African American male and a resident of
8 Rochester, New York. He worked for Cintas as a driver at its Rochester, New York facility from
9 in or about April 2000 to January 2002. Because of his race, Cintas took away one of
10 Mr. Thompson's better accounts in or around June 2001, reassigned him to an undesirable route
11 in or about November 2001, and terminated him in or about January 2002.

12 13. Plaintiff Coretta Silvers (formerly Vick) is an African American female and a
13 resident of Raleigh, North Carolina. She worked for Cintas in an accounts receivable position at
14 its Raleigh, North Carolina facility from approximately July 5, 2002 to approximately February 5,
15 2003. Because of her race, Cintas paid plaintiff Silvers less than a white co-worker with the same
16 position and job duties. On or about January 8, 2004, plaintiff Silvers (then Vick) filed a charge
17 of Discrimination with the EEOC. On or about June 28, 2004, the EEOC issued her a Notice of
18 Right to Sue on her Charge. Copies of that Charge and Notice are attached as Exhibits 6A and
19 6B, respectively.

20 14. Plaintiff Amy Severson is a female and a resident of Billings, Missouri. She
21 worked for Cintas as a service sales representative and catalog sales trainer at its Springfield,
22 Missouri facility from approximately April 19, 2001 to May 1, 2003. Because of her sex, Cintas
23 denied Ms. Severson training and administrative support and terminated her on or about May 1,
24 2003. From approximately April 2002 until the date of her termination, Ms. Severson was
25 deterred and discouraged from pursuing a promotion to the position of service manager because
26 of her sex. On or about November 18, 2003, plaintiff Severson filed a Charge of Discrimination
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1 with the EEOC. On June 9, 2004, the EEOC issued her a Notice of Right to Sue on her Charge.
2 Copies of that Charge and Notice are attached as Exhibits 7A and 7B, respectively.

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4 15. Plaintiff Blanca Nelly Avalos is a Hispanic female and a resident of Panorama
5 City, California. She was born in Ecuador. Cintas refused to hire plaintiff Avalos as a driver at
6 its Van Nuys, California facility in or around early 2004 because of her sex and national origin.
7 On or about June 23, 2004, plaintiff Avalos filed a Charge of the Discrimination with the EEOC.
8 A copy of that Charge is attached as Exhibit 8. Plaintiff Avalos has requested that the EEOC
9 issue a Notice of Right to Sue on her Charge, which will be filed with the Court as soon as it is
10 received.

11 Defendant

12 16. Cintas is a national corporation headquartered in Cincinnati, Ohio. For fiscal year
13 2003, Cintas reported \$2.7 billion in sales and \$249 million in profits.

14 17. Defendant Cintas' major business involves renting uniforms, mats, and towels to
15 commercial enterprises. Cintas' production workers clean, repair, hang and assemble the
16 uniforms and materials to be delivered to the customers. Drivers, also known as service sales
17 representatives ("SSRs") deliver clean clothing, mats and towels to customers and pick up dirty
18 items from customers.

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20 18. Defendant Cintas has more than 27,000 employees and operates approximately
21 344 rental facilities across the country in its Rental Division.

22 19. The employees in Cintas' Rental Division rental facilities can be grouped into five
23 categories: (a) production, or laundry workers; (b) service department workers, including drivers,
24 or SSRs, and helpers; (c) sales employees; (d) office and human resource employees; and (e)
25 supervisors and managers.

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27 20. Cintas operates under a nationwide business plan that is established at its
28 headquarters in Cincinnati, Ohio and similarly implemented at each of its Rental Division

1 facilities throughout the country, which plan includes strategies and programs regarding methods
2 of operation and service systems.

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4 21. Cintas has developed and continually reinforces a centralized corporate culture
5 that is implemented at each of its Rental Division facilities throughout the country. Cintas
6 regularly moves upper level managers from one Rental Division facility to another, and often
7 from one state to another. This practice is done in part to ensure that a uniform Cintas culture
8 operates consistently throughout all of its Rental Division facilities.

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FACTS RELATING TO THE PATTERN OF INTENTIONAL AND
SYSTEMIC DISCRIMINATION BY DEFENDANT CINTAS

22. Defendant Cintas' employment practices and systems discriminate against African
American, Hispanic and female employees and applicants for employment, because of their race,
national origin and/or sex, in Rental Division facilities. The discriminatory practices engaged in
by Cintas' Rental Division are intentional and systemic in nature, and adversely affect plaintiffs
and members of the class with respect to opportunities for hiring, promotion, transfer, job
assignment, compensation, and other terms and conditions of employment, as specifically
summarized below.

23. According to Cintas 2003 Annual Report, Cintas' upper level management, with
the exception of a few women, is comprised almost exclusively of white men. The homogenous
racial and gender composition of Cintas' management at the highest levels is reflected in
management throughout the facilities in the Rental Division, which also is predominantly white
and male.

24. Upper level white male managers have communicated Cintas' discriminatory
policies and practices in explicit terms to lower level managers who make personnel decisions.
For example, regional vice president John Milligan instructed managers at the Painesville, Ohio
facility to reduce the number of Hispanic workers, saying "knock off this Mexican crap."

1 25. White male managers have echoed these biased sentiments. For example,
2 Painesville, Ohio general manger Al Kocsis directed his white managers and supervisors to hire
3 “people who look like you and me” because Hispanics “don’t share our values” and “don’t come
4 from the same culture.” Mr. Kocsis also derisively commented that the plant looked like a “little
5 Havana” and that the Hispanic employees were “stinking up the cafeteria” with the “kind of crap
6 they are eating in there.”

7 26. White male managers have also made racially and ethnically derogatory and
8 offensive comments and other statements evidencing their animus and bias against African
9 Americans and Hispanics. For example, Mike Palo, general manager of Cintas’ Irvington, New
10 Jersey facility, frequently referred to black employees as “niggers” and often stated that he was
11 “black from the waist down.” A sales service manager at Cintas’ Houston, Texas facility stated
12 that “it didn’t look good to have blacks and Hispanics on the trucks.” The plant manager at the
13 same facility stated that Hispanics didn’t have a “tidy appearance.” Brian Dudley, a service
14 training coordinator in Cintas’ Springfield, Missouri facility, said in a sales meeting that Cintas
15 facilities in Arkansas would not hire blacks because customers would not like it.

16 27. Similarly negative statements have been made about the employment of women
17 for SSR positions in Cintas’ Rental Division. Scott Thomas, a production supervisor in
18 Michigan, told a female employee who wanted to become a driver that the “job was too hard for
19 women.”
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21 28. Senior Cintas officials, managers, and supervisors have made sexually derogatory
22 and offensive comments and other statements evidencing their animus and bias against women.
23 For example, Mike Palo, general manager of Cintas’ Irvington, New Jersey facility, frequently
24 referred to women as “sluts.”
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1 A. Discrimination Against Hispanic Supervisors in Promotions, Transfers and Job
2 Assignments.

3 29. Management and supervisory jobs at the rental facilities include: general manager
4 or branch manager, production manager, service sales manager, production supervisor, sales
5 manager, and office manager.

6
7 30. Hispanic salaried supervisors are discriminated against in promotion or transfer to
8 these supervisory and managerial positions.

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10 31. Through at least the end of 2003, Cintas did not post supervisory and managerial
11 positions available in its Rental Division. When Cintas filled open positions from its pool of
12 current employees, it typically used a “tap on the shoulder” method under which the
13 predominantly white male managers made subjective and biased decisions to fill supervisory and
14 managerial positions with non-Hispanic employees. Consequently, open supervisory and
15 managerial positions were unknown to Hispanic employees who were not given an opportunity to
16 apply and compete equally for these positions.

17 32. Hispanic salaried supervisors are discriminated against in the scope and extent of
18 their job assignments as a result of subjective and biased decisions made by predominantly white
19 male managers.

20 B. Discrimination against Women, African Americans and Hispanics in Hiring to SSR
21 Positions.

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23 33. Drivers, also known as service sales representatives (“SSRs”), work in the service
24 department at Rental Division facilities. They deliver clean uniforms, mats, and towels to clients
25 and pick up dirty items, which they return to the facility for laundering. Drivers are the key
26 contacts for developing good relationships with Cintas’ customers. A critical part of their job
27 duties entails selling additional products and services to existing Cintas customers. Drivers are
28 the highest paid non-supervisory workers in the Rental Division.

1 34. African Americans, Hispanics and women are discriminated against in hiring to
2 SSR positions in Cintas' Rental Division.

3 35. Cintas does not have uniform practices or objective standards or criteria for
4 making hiring decisions for SSR positions in its Rental Division. Cintas managers are free to
5 make those employment decisions based on their own subjective preferences rather than objective
6 criteria and individual qualifications. As a result of these practices, African Americans,
7 Hispanics and women are discriminated against in hiring for SSR positions in the Rental
8 Division.

9 36. African Americans and Hispanics are under-represented in the SSR position.
10 While the substantial majority of the production workers are African American and Hispanic,
11 those groups make up only a small fraction of SSRs. For example, on information and belief, in
12 or about July 2003, 80-90% of the production workers at Cintas' Las Vegas, Nevada facility were
13 Hispanic, but of the 34 SSRs, at the facility, only one was Hispanic, one was African American,
14 one was Asian, and the balance were white.

15 37. Very few women are hired into or assigned to SSR jobs. On information and
16 belief, Cintas employs approximately 5,000 SSRs nationwide, of which only 5% or less are
17 female. Conversely, a substantial majority of the workers employed in production jobs in the
18 Rental Division facilities are female.

19 38. Helpers are assigned to work with some SSRs in the Rental Division. The helpers
20 ride the routes with the SSRs and assist with heavy lifting. The helpers are almost always men
21 and most often Hispanic or African American. Notwithstanding their qualifications for SSR
22 positions, helpers rarely are moved into SSR positions.

23 39. As part of the hiring process for SSR positions, applicants are taken for a day long
24 "ride along" with a current SSR. The SSRs who take applicants for a ride along, almost all of
25 whom are men, and most of whom are white, are often able to effectively veto the applicant's
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1 hire. On information and belief, SSRs are not given objective or standardized criteria to use in
2 evaluating the fitness of applicants for the job. Those SSRs often exercise that power against
3 minority and/or female applicants in a biased manner.

4 40. Cintas also may require applicants for SSRs positions to take a written test that
5 may have a disparate impact on African Americans and Hispanics.
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7 C. Discrimination Against African Americans in SSR Positions in Route Assignments.

8 41. Route assignments to a large extent determine the commissions and bonuses SSRs
9 earn. Some routes are more lucrative than others. Industrial or garment routes involve the
10 delivery of uniforms, mats, and towels. Facilities services or bulk routes involve the delivery of
11 mats and towels only. Facilities services routes generate less income than do industrial routes.
12 Additionally, some routes are longer and/or further away from Cintas facilities, requiring the
13 SSRs to work longer hours without generating additional commission or bonus income.
14

15 42. Cintas does not have a system for distribution of routes to SSRs that is based on
16 objective criteria. Rather, routes are distributed in a biased manner by mostly white male
17 managers based on their own subjective decision-making. As a result, African American SSRs in
18 Cintas' Rental Division are more likely to be assigned less lucrative routes, routes that require
19 more travel and longer hours, and routes that go through low income and minority
20 neighborhoods.

21 43. Cintas does not have a system for setting the commission rates for SSRs that is
22 based on objective criteria. Rather, commission rates are set in a biased manner by mostly white
23 male managers based on their own subjective decision-making. As a result, African American
24 SSRs are more likely to be given lower commission rates than white drivers.
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1 D. Discrimination in Compensation Against African American Non-Exempt Employees in
2 Cintas' Rental Division Facilities.

3 44. Cintas discriminates against non-exempt African American employees with regard
4 to pay in its Rental Division facilities.

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6 45. African American non-exempt employees in the Rental Division are paid less than
7 similarly situated non-African American non-exempt employees for similar work and job
8 performance. The amount of compensation an employee receives is not determined by any
9 objective criteria or standards, but rather is determined by subjective, arbitrary and capricious
10 decision-making by Cintas' nearly all white male managers in the Rental Division. This
11 subjective system results in African American non-exempt employees in the Rental Division
12 receiving less compensation than similarly situated white non-exempt employees.

13 CLASS ACTION ALLEGATIONS

14 46. Plaintiffs bring their claims under Section 1981, Title VII, and FEHA as a class
15 action pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf
16 of themselves and all others similarly situated, as more specifically described below.

17 47. The plaintiffs seek to represent a class, of which they are members, consisting of:

18
19 a. Women who were denied hiring to service sales representative
20 (SSR) positions in Cintas' Rental Division during the limitations period;

21 b. African Americans who were denied hiring to service sales
22 representative (SSR) positions in Cintas' Rental Division during the limitations
23 period;

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25 c. Hispanics who were denied hiring to service sales representative
26 (SSR) positions in Cintas' Rental Division during the limitations period;

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d. African Americans who have held an SSR position in Cintas' Rental Division during the limitations period and who have been subjected to Cintas' discriminatory practices with regard to SSR route assignments;

e. African Americans who have held non-exempt positions in Cintas' Rental Division during the limitations period and who have been subjected to Cintas' discriminatory compensation practices; and

f. Hispanics who have held positions as exempt supervisors or managers in Cintas' Rental Division below the General Manager (or Branch Manager or equivalent) position during the limitations period who have been subjected to Cintas' discriminatory practices with regard to opportunities for promotion out of those positions and the scope and extent of their job assignments. As used in this paragraph, "promotion" includes transfer to another position that would provide additional wages, benefits, better working conditions, or an opportunity for career development, additional training, or experience that might reasonably lead to future advancement.

48. Plaintiffs Pocasangre Cardoza and Avalos seek to represent a subclass, of which they are members, consisting of:

a. Women who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division in California during the limitations period; and

b. Hispanics who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division in California during the limitations period.

49. The named plaintiffs as class representatives and subclass representatives, and the class and subclass as defined above, meet each of the requirements of Rule 23(a), 23(b)(2), and

1 23(b)(3) of the Federal Rules of Civil Procedure for certification of this case as a class action, for
2 the reasons stated below.

3 50. Rule 23(a)(1) -- Numerosity. The exact number of members of the class and
4 subclass is not known at present, and will be determined through discovery. It is estimated that
5 there are hundreds or thousands of African Americans, hundreds or thousands of Hispanics, and
6 hundreds or thousands of women, who are class members or subclass members. In addition, the
7 class members are spread throughout the regions and states of the country, and are located in
8 dozens of separate facilities as employees and communities as potential employees. The class
9 and subclass are therefore so numerous and so situated that individual joinder of class members
10 and subclass members is impracticable.

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12 51. Rule 23(a)(2) -- Commonality. There are numerous common questions of fact and
13 law in this action that relate to and affect the claims of relief sought by the class and subclass, as
14 well as the anticipated defenses thereto. These common questions include, without limitation, the
15 following:

16 a. Whether women, African Americans and Hispanics were denied
17 hiring to service sales representative (SSR) positions in Cintas' Rental Division
18 during the limitations period because of their gender, race or national origin;

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20 b. Whether African Americans who have held a service sales
21 representative (SSR) position in Cintas' Rental Division during the limitations
22 period have been discriminated against in SSR route assignments because of their
23 race;

24 c. Whether African Americans who have held non-exempt positions
25 in Cintas' Rental Division during the limitations period have been discriminated
26 against in compensation because of their race;

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d. Whether Hispanics who have held positions as exempt supervisors or managers below a General Manager (or Branch Manager or equivalent) position in Cintas' Rental Division during the limitations period have been discriminated against in opportunities for promotion out of those positions;

e. Whether Cintas has given decision-making authority in the above-described personnel matters to managers who exercise uncontrolled, unsupervised discretion that provides a ready means for discrimination, and whether that authority is used to discriminate in decision-making;

f. Whether there is a pattern or class-wide practice in Cintas' above-described decision-making in personnel matters of intentional race and national origin discrimination against African Americans and Hispanics, and of sex discrimination against women;

g. Whether statistical analyses of the compensation of African Americans in non-exempt positions, Hispanics in supervisory and managerial positions, and African Americans, Hispanics and women into SSR positions show adverse impact;

h. Whether the above-described policies and practices of Cintas' Rental Division result in adverse impact against African Americans, Hispanics, and/or women; and if so, whether they are job-related and consistent with business necessity;

i. What relief is appropriate to remedy the claims of plaintiffs and the class resulting from Cintas' above-described discriminatory employment practices pursuant to Title VII, FEHA and the UCL;

1 j. The appropriate standards for grant of injunctive relief, both
2 equitable and in the form of damages, to remedy Cintas' above-described
3 discriminatory employment practices;

4 k. Whether, as a result of Cintas' above-described discriminatory
5 practices, plaintiffs and the class suffered lost wages and other monetary damages;

6 l. Whether Cintas' above-described discriminatory actions are
7 "intentional" within the meaning of authorities applying Section 1981 and 42
8 U.S.C. §1981a(a)(1); and

9 m. Whether Cintas acted with malice or reckless indifference by the
10 above-described discrimination against plaintiffs and the class and subclass in the
11 face of a perceived risk that its actions would violate their rights such that an
12 award of punitive damages to the class and subclass is appropriate; and, if so, how
13 such award should be determined and distributed to members of the class and
14 subclass.

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17 52. Rule 23(a)(3) -- Typicality. The claims of the named plaintiffs, who are
18 representatives of the class and subclass, are typical of the claims of the class and subclass. The
19 named plaintiffs have been personally affected and discriminated against by the same practices
20 that plaintiffs allege in this complaint have harmed the class and subclass as a whole and other
21 class and subclass members individually.

22 53. Rule 23(a)(4) -- Adequacy. The named plaintiffs will fairly and adequately
23 represent the interests of the class and subclass. There is no conflict between any named plaintiff
24 and other members of the class or subclass with respect to this action or the claims for relief set
25 forth in this complaint. The attorneys for the plaintiffs are experienced and competent in
26 representation of classes in employment discrimination actions, and they have and will devote
27 adequate staff and other resources to the case.
28

1 65. Defendant’s conduct also has had an adverse impact against plaintiffs and
2 members of the class, and is neither job-related nor consistent with business necessity, and
3 therefore violates the rights of plaintiffs and members of the class under Title VII.

4 66. As a result of the violation of the Title VII rights of plaintiffs and the class, those
5 plaintiffs and members of the class are entitled to equitable and injunctive relief, including
6 “rightful place” and “make whole” remedies and equitable monetary relief, to remedy and
7 compensate for the effects of defendant’s unlawful actions.

8 67. As a result of the defendant’s intentional violation of the Title VII rights of the
9 plaintiffs and the class, those plaintiffs and members of the class have suffered anguish,
10 humiliation, distress, inconvenience and loss of enjoyment of life, thereby entitling them to
11 compensatory damages.

12 68. In its discriminatory actions as alleged above, Cintas has acted with malice or
13 reckless indifference to the rights of the above-named African American, Hispanic, and female
14 plaintiffs and class members, thereby entitling them to an award of punitive damages.

15 69. To remedy the violation of the rights of plaintiffs and the class secured by Title
16 VII, plaintiffs request that the Court award them the relief prayed for below.

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19 THIRD CAUSE OF ACTION -- VIOLATION OF CALIFORNIA FAIR
20 EMPLOYMENT AND HOUSING ACT
21 (ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS
22 WHO RESIDE(D), WORK(ED), OR APPLIED
23 FOR EMPLOYMENT IN CALIFORNIA)

24 70. Plaintiffs re-allege and incorporate by reference herein the allegations of
25 paragraphs 1 through 60, inclusive, as set forth above.

26 71. Defendant’s discrimination against plaintiffs Pocasangre Cardoza and Avalos and
27 members of the class who reside(d) and/or work(ed) for Cintas in California, and/or applied for
28 employment with Cintas in California, is in violation of the rights secured to plaintiffs and the
subclass by FEHA, California Government Code §§12940 et seq.

1 72. By the conduct described above, defendant intentionally violated the rights of
2 plaintiffs Pocasangre Cardoza and Avalos and members of the subclass under FEHA.

3 73. Defendant’s conduct also has had an adverse impact on plaintiffs Pocasangre
4 Cardoza and Avalos and members of the subclass, and is neither job-related nor consistent with
5 business necessity, and therefore violates the rights of plaintiffs and members of the subclass
6 under FEHA.

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8 74. As a result of the violation of the FEHA rights of the California plaintiffs and class
9 members who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment
10 with Cintas in California, those plaintiffs and members of the subclass are entitled to equitable
11 and injunctive relief, including monetary relief, compensatory and punitive damages to remedy
12 and compensate for the effects of defendant’s unlawful actions and injuries caused by those
13 actions.

14 75. To remedy the violation of the rights of the California plaintiffs and class members
15 who reside(d) and/or work(ed) in California, and/or applied for employment with Cintas in
16 California, as secured by FEHA, plaintiffs request that the Court award them the relief prayed for
17 below.

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19 FOURTH CAUSE OF ACTION - VIOLATION OF CALIFORNIA
20 BUSINESS AND PROFESSIONS CODE/UNFAIR COMPETITION LAW
21 (ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS
22 WHO RESIDE(D), WORK(ED), OR APPLIED
23 FOR EMPLOYMENT IN CALIFORNIA)

24 76. Plaintiffs re-allege and incorporate by reference herein the allegations of
25 paragraphs 1 through 75, inclusive, as set forth above.

26 77. The UCL, California Business and Professions Code §§17200 et seq., prohibits
27 “unfair competition.” Under the UCL, “unfair competition” is defined as “any unlawful, unfair or
28 fraudulent business act or practice. . . .” Violations of other statutes, including §1981, Title VII,
and FEHA, as alleged herein, which constitute unfair, unlawful, or fraudulent business practices,

1 also violate the UCL and give rise to a claim for relief as specified in Business & Professions
2 Code §17203.

3 78. Plaintiffs Pocasangre Cardoza and Avalos are residents of California and were
4 employed by or applied for an SSR position with defendant Cintas in California within the period
5 actionable under the UCL.
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7 79. Plaintiffs Pocasangre Cardoza and Avalos bring this case as a representative action
8 on behalf of themselves and on behalf of Hispanics and women who reside(d) and/or work(ed) for
9 Cintas in California, and/or who applied for service sales representative positions with Cintas in
10 California, and on behalf of the general public, pursuant to §17204 of the California Business and
11 Professions Code. Under this Cause of Action, plaintiffs seek relief under the UCL only for those
12 plaintiffs and members of the class who reside(d) and/or work(ed) for Cintas in California, and/or
13 applied for employment in California.

14 80. To remedy the violation of the rights of the California plaintiffs and class members
15 who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment with
16 Cintas in California as secured by the UCL, on behalf of themselves and the general public, and
17 in order to enforce California's public policy and laws against employment discrimination and to
18 seek restitution and disgorgement of defendant's ill-gotten gains secured in violation of law,
19 plaintiffs request that the Court award them the relief prayed for below.
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21 PRAYER FOR RELIEF

22 WHEREFORE, plaintiffs pray that the Court grant relief on their First, Second, Third and
23 Fourth Causes of Action as specified below.

24 81. Plaintiffs pray that the Court assign the case for hearing(s) at the earliest
25 practicable date(s) and cause the case to be in every way expedited, pursuant to 42 U.S.C.
26 §2000e-5(f)(5).

27 82. Plaintiffs pray that the Court certify a class defined as:
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- a. Women who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;
- b. African Americans who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;
- c. Hispanics who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;
- d. African Americans who have held an SSR position in Cintas' Rental Division during the limitations period and who have been subjected to Cintas' discriminatory practices with regard to SSR route assignments;
- e. African Americans who have held non-exempt positions in Defendant's Rental Division during the limitations period and who have been subjected to Cintas' discriminatory compensation practices; and
- f. Hispanics who have held positions as exempt supervisors or managers in Cintas' Rental Division below the General Manager (or Branch Manager or equivalent) position during the limitations period and who have been subjected to Cintas' discriminatory practices with regard to opportunities for promotion out of those positions and the scope and extent of their job assignments. As used in this paragraph, "promotion" includes transfer to another position that would provide additional wages, benefits, better working conditions, or an opportunity for career development, additional training, or experience that might reasonably lead to future advancement.

Plaintiffs further pray that the Court certify the named plaintiffs and their attorneys as representatives of this class, pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

1 83. Plaintiffs pray that the Court certify a subclass for purposes of relief on the Third
2 and Fourth Causes of Action defined as:

3 a. Women who were denied hiring to service sales representative
4 (SSR) positions in Cintas' Rental Division in California during the limitations
5 period; and

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7 b. Hispanics who were denied hiring to service sales representative
8 (SSR) positions in Cintas' Rental Division in California during the limitations
9 period

10 and certify the named plaintiffs Pocasangre Cardoza and Avalos and their attorneys as
11 representatives of this subclass, pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of
12 Civil Procedure.

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14 84. Plaintiffs pray that the Court issue a declaratory judgment against defendant Cintas
15 finding that Cintas' Rental Division has violated the rights of plaintiffs and the class and subclass
16 Section under 1981, Title VII, and the FEHA, by denying and depriving plaintiffs, the class, and
17 the subclass of equal employment opportunities on the basis of race, national origin, or sex, as
18 alleged in this complaint; and that the violations of Section 1981, Title VII, and FEHA rights as
19 specified above constitute unfair, unlawful and/or fraudulent business practices in violation of the
20 UCL.

21 85. Plaintiffs pray that the Court issue a preliminary and permanent injunction
22 pursuant to §1981, Title VII, FEHA, and the UCL, enjoining defendant Cintas, its officers,
23 agents, employees, and all others acting for or succeeding Cintas, from engaging in the
24 discriminatory employment practices alleged in this complaint that discriminate against plaintiffs,
25 the class, or the subclass in violation of Section 1981, Title VII, or FEHA, on the basis of race,
26 national origin, or sex.

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1 86. Plaintiffs pray that the Court enter a preliminary and permanent injunction
2 ordering and requiring that defendant Cintas formulate, institute, adopt and maintain policies and
3 practices which will provide equal employment opportunities to plaintiffs, the class, the subclass,
4 and future African American, Hispanic and female employees and applicants for employment,
5 and which will to the extent practicable remedy the continuing effects of past discrimination
6 against plaintiffs and the class and subclass, and restore them to the employment status and
7 position they would have held and enjoyed but for the unlawful discrimination complained of
8 herein.

9 87. Plaintiffs pray that the Court award monetary relief as follows:
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11 a. On the First Cause of Action, order defendant to pay equitable
12 monetary relief, compensatory and punitive damages to plaintiffs and members of
13 the class on whose behalf claims are asserted under Section 1981 in that Cause of
14 Action, in an amount to be proved at trial;

15 b. On the Second Cause of Action, order defendant to pay equitable
16 monetary relief, compensatory and punitive damages within the limits of 42 U.S.C.
17 §1981a(a)(1) to plaintiffs and members of the class on the claims asserted under
18 Title VII in that Cause of Action, in an amount to be proved at trial;

19 c. On the Third Cause of Action, order defendant to pay equitable
20 monetary relief, compensatory and punitive damages to plaintiffs and class
21 members who reside(d) and/or work(ed) for Cintas in California and/or applied for
22 employment with Cintas in California on the claims asserted under the FEHA in
23 that Cause of Action, in an amount to be proved at trial; and
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25 d. On the Fourth Cause of Action, order defendant to make restitution
26 to the plaintiffs and members of the public who reside(d) and/or work(ed) for
27 Cintas in California and/or applied for employment with Cintas in California and
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who were adversely treated and/or affected by Cintas’ discriminatory practices, and who were deprived of wages, compensation, fringe benefits, or other monetary benefits as a result of Cintas’ violations of law for which the UCL provides such remedies; and to disgorge profits or ill-gotten gains obtained by Cintas from its practices which violate §1981, Title VII, or the FEHA as alleged therein, in an amount to be proved at trial.

88. Plaintiffs pray that the Court award them their costs, expenses and attorneys’ fees, payable by defendant Cintas, as follows:

a. By determining that plaintiffs are prevailing parties on the First, Second, and Third Causes of Action, and thereupon awarding plaintiffs their reasonable costs, expenses, and attorneys’ fees incurred in bringing this action, pursuant to 42 U.S.C. §1988 on the First Cause of Action, §1988 and 42 U.S.C. §2000e-5(k) on the Second Cause of Action, and Government Code §12965(b) on the Third Cause of Action.

b. By awarding plaintiffs their reasonable costs, expenses, and attorneys’ fees on their Fourth Cause of Action based on their creation of a common fund to the benefit of the class, and pursuant to California Civil Code §1021.5 for the benefits, including monetary relief, obtained on behalf of plaintiffs and members of the class who reside(d) and/or work(ed) for Cintas in California and/or applied for employment with Cintas in California, and the general public of California, and for serving as “private attorneys general” in acting to enforce the public policy, interest and law of the State of California.

89. Plaintiffs pray that the Court order Cintas to pay pre- and post-judgment interest in all monetary amounts awarded in this action, as provided by law.

1 90. Plaintiffs pray that the Court retain jurisdiction of this case for a sufficient period
2 of time to assure that defendant Cintas has fully complied with the preliminary and permanent
3 injunctions requested herein and has remedied to the greatest extent practicable the discriminatory
4 policies and practices complained of herein, and that Cintas is operating in full compliance with
5 the requirements of §1981, Title VII, the FEHA and the UCL with regard to its employment
6 policies and practices.

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8 91. Plaintiffs pray that the Court award such other and further relief as this Court
9 deems equitable and just.

10 Dated: October 28, 2004

Respectfully submitted,

/s/ Paul Strauss

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