

1 NANCY L. ABELL (SB# 88785) nancyabell@paulhastings.com
MARK W. ATKINSON (SB# 60472) markatkinson@paulhastings.com
2 ELENA R. BACA (SB# 160564) elenabaca@paulhastings.com
HEATHER A. MORGAN (SB# 177425) heathermorgan@paulhastings.com
3 JOSEPH W. DENG (SB# 179320) josephdeng@paulhastings.com
PAUL, HASTINGS, JANOFSKY & WALKER LLP
4 515 South Flower Street
Twenty-Fifth Floor
5 Los Angeles, CA 90071-2228
Telephone: (213) 683-6000
6 Facsimile: (213) 627-0705

7 Attorneys for Defendant
CINTAS CORPORATION

8 *Plaintiffs' Counsel Listed on Next Page*

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 ROBERT RAMIREZ, ROBERT
14 HARRIS, LUIS POCASANGRE
CARDOZA, JOSE SALCEDO, A.
15 SHAPPELLE THOMPSON,
CORETTA SILVERS (formerly
16 VICK), SANDRA EVANS, BLANCA
NELLY AVALOS, JAMES MORGAN
17 and ANTHONY JONES, on behalf of
themselves and all others similarly
18 situated,

19 Plaintiffs,

20 vs.

21 CINTAS CORPORATION,

22 Defendant.

23
24 EQUAL EMPLOYMENT
25 OPPORTUNITY COMMISSION,

26 Plaintiff/Intervenor.
27
28

CASE NO. C04-0281-JSW

[RELATED TO CASE NO. C05-03145-JSW]

**JOINT STIPULATION OF DISMISSAL
OF PLAINTIFF SANDRA EVANS'
CLAIMS AND ~~PROPOSED~~ ORDER**

1 MORRIS J. BALLER (SB# 048928)
ROBERTA L. STEELE (SB# 188198)
2 NINA RABIN (SB# 229403)
GOLDSTEIN, DEMCHAK, BALLER,
3 BORGEN & DARDARIAN
300 Lakeside Dr., Suite 1000
4 Oakland, CA 94612
Telephone: (510) 763-9800
5 Facsimile: (510) 835-1417

6 PAUL STRAUSS (SB# 153937)
ROBERT S. LIBMAN (SB# 139283)
7 NANCY MALDONADO
MINER, BARNHILL & GALLAND
8 14 W. Erie Street
Chicago, IL 60610
9 Telephone: (312) 751-1170
Facsimile: (312) 751-0438

10 Attorneys for Plaintiffs ROBERT RAMIREZ, et al.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECITALS

WHEREAS, on August 3, 2005, Plaintiff Sandra Evans (“Evans”) filed her Fourth Amended Complaint (“FAC”) asserting claims on behalf of herself and as a putative class representative for certain present and former employees of Defendant Cintas Corporation (“Cintas”);

WHEREAS, in the FAC, Evans individually asserted claims under the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 (“Section 1981”), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended (“Title VII”); the California Fair Employment and Housing Act, California Government Code §§ 12940, *et seq.* (“FEHA”) and the California Unfair Business Practices Act, Business and Professions Code §17200 (“UCL”), specifically contending that Cintas paid and continues to pay Evans a lower hourly rate than white coworkers because of her race (black) (FAC ¶ 8);

WHEREAS, in the FAC, Evans sought to assert claims as a class representative for African American non-exempt employees in Cintas’ Rental Division who allegedly were and are paid less than similarly situated non-African American employees in violation of Section 1981, Title VII, FEHA and the UCL (FAC ¶¶ 45-46, 48(e));

WHEREAS, Evans intends to dismiss her claims and thus is not an adequate class representative for any form of relief sought on behalf of the putative class described in paragraph 48(e) of the FAC;

WHEREAS, Evans has agreed to withdraw as a class representative and dismiss her individual and class claims with prejudice against Cintas in exchange for

1 Cintas' waiver of its right to recover costs against Evans pursuant to Federal Rule of Civil
2 Procedure 54(d);

3

4 WHEREAS, the parties have agreed that Plaintiffs' counsel will not include
5 any attorneys' fees or costs incurred as part of maintaining Evans' individual claims (or
6 the class claims Evans has asserted if there is no adequate class representative to represent
7 the putative class described in paragraph 48(e) of the FAC), should they later apply for an
8 award of attorneys' fees or costs in this litigation. However, if Plaintiffs or Plaintiffs'
9 counsel apply for an award of attorneys' fees and costs, this stipulation will not preclude
10 them from asserting that some portion of the time spent on the class claims asserted by
11 Evans should be allocated to another claim on which plaintiffs prevailed; and nothing in
12 this stipulation will preclude defendant from asserting any legal arguments in opposition
13 to such an allocation; and

14

15 WHEREAS, the parties have agreed that, notwithstanding the stipulated
16 dismissal of Evans' claims, if a class of Cintas employees is certified and Evans falls
17 within the definition of any such class, Evans may participate and receive any benefit to
18 which she would be entitled as a member of the class, if any.

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIPULATION

THE PARTIES, BY AND THROUGH THEIR COUNSEL, HEREBY
STIPULATE AS FOLLOWS:

1. Plaintiff Sandra Evans withdraws as the named, representative plaintiff and dismisses with prejudice her class claims for the putative class of African American non-exempt employees in Cintas' Rental Division who contend they were paid less than similarly situated non-African American employees in violation of Section 1981, Title VII, FEHA and the UCL;

2. Plaintiff Sandra Evans dismisses with prejudice her individual claims for discriminatory pay in violation of Section 1981, Title VII, FEHA and the UCL;

3. Plaintiffs' counsel will not include any attorneys' fees or costs incurred as part of maintaining Evans' individual claims (or the class claims Evans has asserted if there is no adequate class representative to represent the putative class described in paragraph 48(e) of the FAC), should they later apply for an award of attorneys' fees or costs in this litigation. However, if Plaintiffs or Plaintiffs' counsel apply for an award of attorneys' fees and costs, this stipulation will not preclude them from asserting that some portion of the time spent on the class claims asserted by Evans should be allocated to another claim on which plaintiffs prevailed; and nothing in this stipulation will preclude defendant from asserting any legal arguments in opposition to such an allocation; and

1 4. Cintas waives its right to recover costs against Plaintiff Sandra Evans
2 after the dismissal of her individual and putative class claims as permitted by Federal Rule
3 of Civil Procedure 43(d).

4
5 DATED: December 7, 2005 Respectfully submitted,

6
7 By: /s/ Paul Strauss
 PAUL STRAUSS

8 Paul Strauss
9 Robert S. Libman
10 Nancy Maldonado
11 MINER, BARNHILL & GALLAND
12 14 W. Erie Street
Chicago, IL 60610
Phone: (312) 751-1170
Fax: (312) 751-0438

13 Morris J. Baller
14 Roberta L. Steele
15 Nina Rabin
16 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &
17 DARDARIAN
300 Lakeside Drive, Suite 1000
Oakland, CA 94611
Phone: (510) 763-9800
Fax: (510) 835-1417

18 *Counsel for Plaintiffs Robert Ramirez, et al.*

19 DATED: December 7, 2005

20 By: /s/ Nancy L. Abell
 NANCY L. ABELL

21 Nancy L. Abell
22 Mark W. Atkinson
23 Elena R. Baca
24 Heather A. Morgan
25 Joseph W. Deng
26 PAUL, HASTINGS, JANOFISKY & WALKER LLP
515 South Flower Street, 25th Floor
Los Angeles, CA 90071-2228
Phone: (213) 683-6000
Fax: (213) 627-0705

27 *Counsel for Defendant Cintas Corporation*

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

BASED ON THE PARTIES’ STIPULATION AND GOOD CAUSE APPEARING THEREFORE, this Court finds that Plaintiff Sandra Evans is not an adequate class representative and may not represent the alleged class of African American non-exempt employees in Cintas’ Rental Division who contend they were paid less than similarly situated non-African American employees in violation of Section 1981, Title VII, FEHA and the UCL, as set forth in the Fourth Amended Complaint at paragraphs 45-46 and 48(e); on this basis the Court DISMISSES WITH PREJUDICE Plaintiff Sandra Evans’ claims on behalf of this alleged class.

This Court DISMISSES WITH PREJUDICE Plaintiff Sandra Evans’ individual claims that Cintas has violated Section 1981, Title VII, FEHA and the UCL by paying Evans less because of her race (black) than white coworkers.

The Court also finds that Plaintiffs’ counsel is not entitled to recover any amount in attorneys’ fees and costs attributable to pursuing Evans’ individual claims herein (or the class claims Evans has asserted if there is no adequate class representative to represent the putative class described in paragraph 48(e) of the FAC).

WHEREAS, the parties have agreed that Plaintiffs’ counsel will not include any attorneys’ fees or costs incurred as part of maintaining Evans’ individual claims (or the class claims Evans has asserted if there is no adequate class representative to represent the putative class described in paragraph 48(e) of the FAC), should they later apply for an award of attorneys’ fees or costs in this litigation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Finally, the Court finds that Cintas may not recover costs against Plaintiff Sandra Evans as it would be otherwise permitted by Federal Rule of Civil Procedure 43(d).

IT IS SO ORDERED.

DATED: December 8, 2005



HONORABLE JEFFREY S. WHITE
United States District Judge