

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
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CASE NO. C04-0281-JSW

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

**JOINT STIPULATION OF DISMISSAL
OF PLAINTIFF ROBERT HARRIS'
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.
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RECITALS

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

WHEREAS, in the FAC, Harris 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”), and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended (“Title VII”), specifically contending that Cintas refused to hire him as a driver (“SSR”), refused to promote him to the position of SSR, and terminated him because of his race (African American) (FAC ¶ 9);

WHEREAS, in the FAC, Harris sought to assert claims as a class representative for African Americans who allegedly were discriminated against in hiring to SSR position in Cintas’ Rental Division in violation of Section 1981 and Title VII (FAC ¶¶ 33-40, 48(b));

WHEREAS, Harris intends to dismiss both his individual and class claims and therefore cannot serve as a class representative for any form of relief sought on behalf of the putative class described in paragraph 48(b) of the FAC;

WHEREAS, Harris has agreed to dismiss with prejudice his individual and class claims against Cintas in exchange for Cintas’ waiver of its right to recover costs against Harris pursuant to Federal Rule of Civil Procedure 54(d);

1 WHEREAS, the parties have agreed that Plaintiffs’ counsel will not include
2 any attorneys’ fees or costs incurred as part of maintaining Harris’ individual claims (or
3 the class claims Harris has asserted if there is no adequate class representative to represent
4 the putative class described in paragraph 48(b) of the FAC), should they later apply for an
5 award of attorneys’ fees or costs in this litigation. However, if Plaintiffs or Plaintiffs’
6 counsel apply for an award of attorneys’ fees and costs, this stipulation will not preclude
7 them from arguing that some portion of the time and costs spent on the class claims
8 asserted by Harris should be allocated to a claim on which plaintiffs prevailed (including a
9 claim of discrimination in hiring for the SSR job, if plaintiffs prevail on that claim);
10 nothing in this stipulation will preclude Defendant from asserting any legal arguments in
11 opposition to such an allocation; and nothing in this stipulation will preclude the Court
12 from ruling that such an allocation should or should not be made; and

13
14 WHEREAS, the parties have agreed that, notwithstanding the stipulated
15 dismissal of Harris’ claims, if a class of Cintas employees is certified and Harris falls
16 within the definition of any such class, Harris may participate and receive any benefit to
17 which he would be entitled as a member of the class, if any.

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STIPULATION

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

1. Plaintiff Robert Harris withdraws as a named, representative plaintiff and dismisses with prejudice his class claims for the putative class of African American non-exempt employees in Cintas’ Rental Division who contend they were denied hiring to driver (“SSR”) positions in violation of Section 1981 and Title VII;

2. Plaintiff Robert Harris dismisses with prejudice his individual claims for discriminatory hiring, failure to promote, and termination in violation of Section 1981 and Title VII;

3. Plaintiffs’ counsel will not include any attorneys’ fees or costs incurred as part of maintaining Harris’ individual claims (or the class claims Harris has asserted if there is no adequate class representative to represent the putative class described in paragraph 48(b) 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 arguing that some portion of the time and costs spent on the class claims asserted by Harris should be allocated to a claim on which plaintiffs prevailed (including a claim of discrimination in hiring for the SSR job, if plaintiffs prevail on that claim); nothing in this stipulation will preclude Defendant from asserting any legal arguments in opposition to such an allocation; and nothing in this stipulation will preclude the Court from ruling that such an allocation should or should not be made; and

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ORDER

BASED ON THE PARTIES' STIPULATION AND GOOD CAUSE APPEARING THEREFORE, this Court finds that Plaintiff Robert Harris may not represent the alleged class of African Americans who contend that they were discriminated against in hiring to driver ("SSR") positions in Cintas' Rental Division in violation of Section 1981 and Title VII, as set forth in the Fourth Amended Complaint at paragraphs 33-40 and 48(b); on this basis the Court DISMISSES WITH PREJUDICE Plaintiff Robert Harris' claims on behalf of this alleged class.

This Court DISMISSES WITH PREJUDICE Plaintiff Robert Harris' individual claims that Cintas has violated Section 1981 and Title VII by allegedly refusing to hire him as an SSR, refusing promote him to an SSR position, and terminating him because of his race (African American).

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

The parties have agreed that Plaintiffs' counsel will not include any attorneys' fees or costs incurred as part of maintaining Harris' individual claims (or the class claims Harris has asserted if there is no adequate class representative to represent the putative class described in paragraph 48(b) 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 Order will not preclude them from arguing that some portion of the time and costs spent on the class claims asserted by Harris should be allocated to a claim on which plaintiffs prevailed (including a claim of

1 discrimination in hiring for the SSR job, if plaintiffs prevail on that claim); and nothing in
2 this Order will preclude Defendant from asserting any legal arguments in opposition to
3 such an allocation.

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5 Finally, Cintas may not recover costs against Plaintiff Robert Harris.

6 IT IS SO ORDERED.

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9 DATED: January 12, 2006



HONORABLE JEFFREY S. WHITE
United States District Judge

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