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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

CINTAS CORPORATION,

Defendant.

CASE NO. C04-0281-JSW

**STIPULATION AND ~~PROPOSED~~ ORDER
TO (1) NARROW THE SECOND
AMENDED COMPLAINT; (2) ADDRESS
ISSUES RAISED IN DEFENDANT'S
VENUE MOTION; (3) REVISE THE
BRIEFING SCHEDULE FOR
DEFENDANT'S ARBITRATION MOTION;
(4) CONTINUE THE CASE MANAGEMENT
CONFERENCE DATES; AND (5) PERMIT
FILING OF THIRD AMENDED
COMPLAINT**

Judge: Hon. Jeffrey S. White

Hearing Date: November 12, 2004

Complaint Filed: January 20, 2004

Trial Date: None Set

1 **Introduction Re Status**

2
3 1. Defendant Cintas Corporation has two motions which are set to be argued on
4 November 12, 2004: (1) Motion of Defendant Cintas Corporation to (A) Transfer Venue to the
5 Southern District of Ohio or, in the alternative, (B) Dismiss Plaintiffs Ramirez, Beasley, Evans,
6 Harris, Salcedo, Thompson, Silvers and Severson for Lack of Venue (the “Motion to Transfer
7 Venue/Dismiss”); and the (2) Motion of Defendant Cintas Corporation to (A) Dismiss Claims of
8 Plaintiffs Salcedo, Thompson, Silvers and Severson or, in the alternative, (B) Stay Their Claims
9 and Compel Arbitration (the “Motion to Dismiss or Stay and Compel Arbitration”).

10 2. The parties enter into this Stipulation to address issues raised by Defendant’s
11 motions, limit the scope of the sub-classes that Plaintiffs seek to represent, adjust the briefing
12 schedule for Defendant’s motions and the Case Management Conference, and permit the filing of
13 the Third Amended Complaint attached hereto.

14 3. The parties previously stipulated and the Court ordered on September 1, 2004 that
15 the date for the Case Management Conference and related dates would be vacated and reset after
16 the Court rules on Defendant’s motions. In addition, the parties previously stipulated to, and the
17 Court ordered on May 13, 2004 and August 5, 2004, respectively, a Stipulated Request for an
18 Order Changing Time, and a Stipulation and Order regarding the briefing schedule for
19 Defendant’s motions.
20

21 NOW, THEREFORE, pursuant to Northern District Civil Local Rule 6-1 and Judge
22 White’s Standing Order 3, the parties hereby stipulate by and through their respective counsel of
23 record:

24 **Scope of the Action**

25
26 4. Throughout the duration of this case, the named Plaintiffs will seek to represent
27 other people and will move for class certification, if at all, only with respect to the following
28 claims:

1 (a) Women, African Americans and Hispanics allegedly have been
2 discriminated against in hiring to Service Sales Representative (“SSR”) positions in Defendant’s
3 Rental Division during the limitations period;

4 (b) African Americans who have held an SSR position in Defendant’s Rental
5 Division during the limitations period allegedly have been discriminated against in route
6 assignments;

7
8 (c) African Americans who have held non-exempt positions in Defendant’s
9 Rental Division during the limitations period allegedly have been discriminated against in
10 compensation;

11 (d) Hispanics who have held positions as exempt supervisors or managers
12 below a General Manager (or Branch Manager or equivalent position) in Defendant’s Rental
13 Division during the limitations period allegedly have been discriminated against in promotion out
14 of those positions or in the scope of their job assignments. As used in this Stipulation,
15 “promotion” includes transfer to another position that would provide additional wages, benefits,
16 better working conditions, or an opportunity for career development, additional training, or
17 experience that might reasonably lead to future advancement; and
18

19 (e) All damages and other relief permitted under law should liability be found
20 for claims (a) through (d) above.

21 5. This Stipulation shall not limit the named Plaintiffs’ right to pursue the individual
22 claims that are alleged for them, respectively, in Plaintiffs’ Second Amended Complaint. This
23 Stipulation also shall not limit the named Plaintiffs’ right to file a motion to amend their
24 individual allegations and claims. Cintas’s right to oppose Plaintiffs’ individual claims and
25 oppose a motion to amend also shall not limited by this Stipulation.
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1 6. This Stipulation shall constitute a motion by Plaintiffs for leave to file a Third
2 Amended Complaint, which motion Defendant does not oppose, in the form attached hereto as
3 **Exhibit A.**

4 7. Nothing in this Stipulation shall preclude Plaintiffs from moving to add herein as a
5 named plaintiff in the future any claimant who has a claim of discrimination that is within one of
6 the categories listed above, in paragraph numbers 4(a)-(d). This Stipulation also will not limit the
7 right of a person added as an additional named plaintiff to assert other claims he may have, for
8 himself alone. Nothing in this Stipulation will limit Cintas's right to oppose a motion to add an
9 additional named plaintiff or a claim asserted by a new named plaintiff.

10 8. Cintas will not renew its Motion to Transfer Venue/Dismiss on venue grounds, or
11 make a new motion to transfer or dismiss on venue grounds, based on the addition of a new
12 named plaintiff to this case if the new named plaintiff's claims are within the scope of paragraph
13 numbers 4 and 7.

14 9. Nothing in this Stipulation shall preclude counsel for Plaintiffs from filing a
15 different lawsuit with different parties and claims in the future.

16 10. The limits described in this Stipulation on the claims that may be pursued on a
17 class or representative basis shall not apply to claims asserted in a different lawsuit, if that case is
18 consolidated with this one pursuant to a motion by Cintas or pursuant to an order of the Court that
19 was not requested by any of the parties.

20 **Individual Claims of Plaintiffs Beasley and Severson**

21 11. The claims of Plaintiffs Beasley and Severson will be pursued only as individual
22 claims, not as class or collective claims. Cintas will defer its Motion to Transfer Venue/Dismiss
23 the claims of Plaintiffs Robin Beasley and Amy Severson, and its Motion to Dismiss or Stay and
24 Compel Arbitration of the claims of Plaintiff Severson, for not less than ninety (90) days after
25 November 12, 2004. During that time, the parties will attempt in good faith to settle those claims.

1 The parties may agree to mediation, but the parties are not required to do so. If the Beasley case
2 is not settled by February 10, 2005, the parties will jointly move the Court to have it transferred to
3 Beasley's home state of Michigan. The parties may agree to resolve Beasley's case by
4 arbitration, and to ask the Court to refer the case to arbitration rather than transfer it, but the
5 parties are not required to do so. If the Severson case is not settled by February 10, 2005, Cintas
6 may place back on this Court's motion calendar its Motion to Transfer Venue/Dismiss the claims
7 of Plaintiff Amy Severson, and/or its Motion to Dismiss or Stay and Compel Arbitration of the
8 claims of Plaintiff Severson. If Defendant's Motion to Dismiss or Stay and Compel Arbitration
9 of Plaintiff Severson's claims is withdrawn or denied, the parties will jointly move the Court to
10 transfer the Severson case to Severson's home state of Missouri. Defendant may move the Court
11 in Missouri to dismiss or stay and compel arbitration of Severson's case if (and only if) the issue
12 has not been decided by the United States District Court for the Northern District of California.

13 **Defendant's Motion to Transfer Venue**

14
15 12. Defendant will withdraw and will not renew its motion to transfer or dismiss the
16 claims of Plaintiffs Ramirez, Evans, Harris, Salcedo, Thompson, and Silvers on venue grounds.
17 Defendant will not in the future move to transfer or dismiss on venue grounds the claims of
18 Plaintiffs Avalos and Pocasangre.

19 **Discovery Related to Defendant's Motion to Dismiss or Stay and Compel Arbitration**

20
21 13. Because Plaintiffs have asserted that they need some limited discovery from Cintas
22 to properly respond to Defendant's motion to compel arbitration, and in consideration for the
23 other agreements described in this Stipulation, the parties agree that:

24 (a) No later than November 4, 2004, or three business days after the Court
25 enters this Stipulation and Order, whichever is later, Plaintiffs will serve Cintas with a first set of
26 interrogatories, consisting of no more than eight interrogatories that relate solely to the Plaintiffs
27 against whom Defendant has moved to dismiss or stay their claims on the basis of their arbitration
28

1 agreements (Salcedo, Thompson, Silvers and Severson), on the following topics: (1) Cintas's
2 position on whether the arbitration agreements with those Plaintiffs prohibit class treatment of
3 their claims in arbitration; (2) Cintas's position on whether the maximum amount that those
4 Plaintiffs and any class members would have to pay in fees, costs, expenses, and other arbitrators'
5 charges for an arbitration of classwide claims is limited to the amount that those Plaintiffs would
6 have to pay for arbitration of their individual claims; and (3) whether Cintas would ask for one
7 arbitrator or three if those Plaintiffs' claims were subject to arbitration on a class basis;

8 (b) Defendant shall serve its responses and/or objections to Plaintiffs' first set
9 of written interrogatories by no later than three (3) weeks after service of the interrogatories.
10 Defendant may object to any of the interrogatories, but it will not refuse to answer an
11 interrogatory based on a relevance objection, an objection that the interrogatory calls for a legal
12 conclusion, or an objection that Defendant does not know what position it will take in the future.
13 Defendant may object and answer subject to preserving its objections.
14

15 **Revision of Briefing Schedule and Argument Date for Defendant's Arbitration Motion**

16 14. The hearing on Defendant's Motion to Dismiss or Stay and Compel Arbitration
17 shall be continued from November 12, 2004 to February 4, 2005, at 1:30 p.m., or as soon
18 thereafter as it can be scheduled with the Court, and the following, revised briefing schedule shall
19 apply:
20

21 (a) Plaintiffs shall file and serve any opposition papers no later than
22 December 10, 2004, or six (6) weeks prior to hearing on the motion, whichever is later; and

23 (b) Defendant shall file and serve any reply papers by no later than January 7,
24 2005, or two (2) weeks prior to hearing on the motion, whichever is later.
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26 15. The Case Management Conference and related dates will be reset after the Court
27 rules on Defendant's Motion to Dismiss or Stay and Compel Arbitration (the "Court's Arbitration
28 Order"), according to the following schedule:

1 (a) The first Friday three (3) weeks after the date of service of the notice of
2 entry of the Court's Arbitration Order shall be the last day for the parties to meet and confer
3 regarding Initial Disclosures, early settlement, ADR process and discovery plans; and to file Joint
4 ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone
5 Conference (the "Meet and Confer/Joint ADR Certification Date");

6 (b) Four (4) weeks after the date of the Meet and Confer Date shall be the last
7 day for the parties to complete Initial Disclosures or state objection to Rule 26(f) report, file/serve
8 Case Management Statement, and file/serve Rule 26(f) report (the "Initial Disclosures/Case
9 Management Statement Date"); and

10 (c) The Case Management Conference shall take place one (1) week after the
11 Initial Disclosures/Case Management Statement Date (or on the first Friday following that one
12 week period that the Court is in session), at 1:30 p.m.

13 16. Plaintiffs will provide notice of the re-set Case Management Conference and
14 related dates by no later than five (5) court days after notice of entry of the Court's Arbitration
15 Order.
16

17
18 IT IS SO STIPULATED.

19 DATED: October 28, 2004

/s/ Paul Strauss

20 _____
21 Paul Strauss
22 Miner, Barnhill & Galland, P.C.
23 14 West Erie Street
24 Chicago, IL 60610
25 Phone: (312) 751-1170
26 Fax: (312) 751-0438

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28 Counsel for Plaintiffs

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DATED: October 28, 2004

/s/ Nancy L. Abell

Nancy L. Abell
Paul, Hastings, Janofsky & Walker LLP
515 South Flower Street, 25th Floor
Los Angeles, CA 90071-2228
Phone: (213) 683-6000
Fax: (213) 627-0705

Counsel for Defendant Cintas Corporation

ORDER

The Court, having reviewed the record and Stipulation herein, finds that good cause exists and hereby orders as follows:

Scope of the Action

1. Throughout the duration of this case, the named Plaintiffs shall seek to represent other people and will move for class certification, if at all, only with respect to the following claims:

(a) Women, African Americans and Hispanics allegedly have been discriminated against in hiring to Service Sales Representative (“SSR”) positions in Defendant’s Rental Division during the limitations period;

(b) African Americans who have held an SSR position in Defendant’s Rental Division during the limitations period allegedly have been discriminated against in route assignments;

(c) African Americans who have held non-exempt positions in Defendant’s Rental Division during the limitations period allegedly have been discriminated against in compensation;

(d) Hispanics who have held positions as exempt supervisors or managers below a General Manager (or Branch Manager or equivalent position) in Defendant’s Rental Division during the limitations period allegedly have been discriminated against in promotion out of those positions or in the scope of their job assignments. As used in this Stipulation, “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; and

1 (e) All damages and other relief permitted under law should liability be found
2 for claims (a) through (d) above.

3 2. This Order shall not limit the named Plaintiffs' right to pursue the individual
4 claims that are alleged for them, respectively, in Plaintiffs' Second Amended Complaint. This
5 Order also shall not limit the named Plaintiffs' right to file a motion to amend their individual
6 allegations and claims. Cintas's right to oppose Plaintiffs' individual claims and oppose a motion
7 to amend also shall not be limited by this Stipulation.

8 3. Plaintiffs' motion for leave to file a Third Amended Complaint is hereby granted.
9 Plaintiffs shall file a Third Amended Complaint in the form attached hereto as **Exhibit A** within
10 ten (10) days of entry of this Order. Defendant shall serve and file its response to Plaintiffs'
11 Third Amended Complaint within twenty (20) days of notice of entry of the Court's Order on
12 Defendant's Motion to Dismiss or Stay and Compel Arbitration.

13 4. Nothing in this Order shall preclude Plaintiffs from moving to add herein as a
14 named plaintiff in the future any claimant who has a claim of discrimination that is within one of
15 the categories listed above, in paragraph numbers 1(a)-(d). This Order also will not limit the right
16 of a person added as an additional named plaintiff to assert other claims he may have, for himself
17 alone. Nothing in this Order will limit Cintas's right to oppose a motion to add an additional
18 named plaintiff or a claim asserted by a new named plaintiff.

19 5. Cintas will not renew its Motion to Transfer Venue/Dismiss on venue grounds, or
20 make a new motion to transfer or dismiss on venue grounds, based on the addition of a new
21 named plaintiff to this case if the new named plaintiff's claims are within the scope of paragraph
22 numbers 1 and 4.

23 6. Nothing in this Order shall preclude counsel for Plaintiffs from filing a different
24 lawsuit with different parties and claims in the future.

1 7. The limits described in this Order on the claims that may be pursued on a class or
2 representative basis shall not apply to claims asserted in a different lawsuit, if that case is
3 consolidated with this one pursuant to a motion by Cintas or pursuant to an order of the Court that
4 was not requested by any of the parties.

5
6 **Individual Claims of Plaintiffs Beasley and Severson**

7 8. The claims of Plaintiffs Beasley and Severson will be pursued only as individual
8 claims, not as class or collective claims. Cintas will defer its Motion to Transfer Venue/Dismiss
9 the claims of Plaintiffs Robin Beasley and Amy Severson, and its Motion to Dismiss or Stay and
10 Compel Arbitration of the claims of Plaintiff Severson, for not less than ninety (90) days after
11 November 12, 2004. During that time, the parties will attempt in good faith to settle those claims.
12 The parties may agree to mediation, but the parties are not required to do so. If the Beasley case
13 is not settled by February 10, 2005, the parties will jointly move the Court to have it transferred to
14 Beasley's home state of Michigan. The parties may agree to resolve Beasley's case by
15 arbitration, and to ask the Court to refer the case to arbitration rather than transfer it, but the
16 parties are not required to do so. If the Severson case is not settled by February 10, 2005, Cintas
17 may place back on this Court's motion calendar its Motion to Transfer Venue/Dismiss the claims
18 of Plaintiff Amy Severson, and/or its Motion to Dismiss or Stay and Compel Arbitration of the
19 claims of Plaintiff Severson. If Defendant's Motion to Dismiss or Stay and Compel Arbitration
20 of Plaintiff Severson's claims is withdrawn or denied, the parties will jointly move the Court to
21 transfer the Severson case to Severson's home state of Missouri. Defendant may move the Court
22 in Missouri to dismiss or stay and compel arbitration of Severson's case if (and only if) the issue
23 has not been decided by this Court.

24 **Defendant's Motion to Transfer Venue**

25
26 9. Defendant will withdraw and will not renew its motion to transfer or dismiss the
27 claims of Plaintiffs Ramirez, Evans, Harris, Salcedo, Thompson, and Silvers on venue grounds.
28

1 Defendant will not in the future move to transfer or dismiss on venue grounds the claims of
2 Plaintiffs Avalos and Pocasangre.

3 **Discovery Related to Defendant's Motion to Dismiss or Stay and Compel Arbitration**
4

5 10. Because Plaintiffs have asserted that they need some limited discovery from Cintas
6 to properly respond to Defendant's motion to compel arbitration, and in consideration for the
7 other agreements described in this Stipulation, the parties agree that:

8 (a) No later than November 4, 2004, or three business days after the Court
9 enters this Stipulation and Order, whichever is later, Plaintiffs will serve Cintas with a first set of
10 interrogatories, consisting of no more than eight interrogatories that relate solely to the Plaintiffs
11 against whom Defendant has moved to dismiss or stay their claims on the basis of their arbitration
12 agreements (Salcedo, Thompson, Silvers and Severson), on the following topics: (1) Cintas's
13 position on whether the arbitration agreements with those Plaintiffs prohibit class treatment of
14 their claims in arbitration; (2) Cintas's position on whether the maximum amount that those
15 Plaintiffs and any class members would have to pay in fees, costs, expenses, and other arbitrators'
16 charges for an arbitration of classwide claims is limited to the amount that those Plaintiffs would
17 have to pay for arbitration of their individual claims; and (3) whether Cintas would ask for one
18 arbitrator or three if those Plaintiffs' claims were subject to arbitration on a class basis;
19

20 (b) Defendant shall serve its responses and/or objections to Plaintiffs' first set
21 of written interrogatories by no later than three (3) weeks after service of the interrogatories.
22 Defendant may object to any of the interrogatories, but it will not refuse to answer an
23 interrogatory based on a relevance objection, an objection that the interrogatory calls for a legal
24 conclusion, or an objection that Defendant does not know what position it will take in the future.
25 Defendant may object and answer subject to preserving its objections.
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1 **Revision of Briefing Schedule and Argument Date for Defendant's Arbitration Motion**

2 11. The hearing on Defendant's Motion to Dismiss or Stay and Compel Arbitration
3 shall be continued from November 12, 2004 to February 4, 2005, at ~~1:30 p.m.~~, and the following,
4 revised briefing schedule shall apply: 9:00 a.m.

5
6 (a) Plaintiffs shall file and serve any opposition papers no later than
7 December 10, 2004, or six (6) weeks prior to hearing on the motion, whichever is later; and

8 (b) Defendant shall file and serve any reply papers by no later than January 7,
9 2005, or two (2) weeks prior to hearing on the motion, whichever is later.

10
11 12. The Case Management Conference and related dates will be reset after the Court
12 rules on Defendant's Motion to Dismiss or Stay and Compel Arbitration (the "Court Arbitration
13 Order"), according to the following schedule:

14 (a) The first Friday three (3) weeks after the date of service of the notice of
15 entry of the Court Arbitration Order shall be the last day for the parties to meet and confer
16 regarding Initial Disclosures, early settlement, ADR process and discovery plans; and to file Joint
17 ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone
18 Conference (the "Meet and Confer/Joint ADR Certification Date");

19
20 (b) Four (4) weeks after the date of the Meet and Confer Date shall be the last
21 day for the parties to complete Initial Disclosures or state objection to Rule 26(f) report, file/serve
22 Case Management Statement, and file/serve Rule 26(f) report (the "Initial Disclosures/Case
23 Management Statement Date"); and

24 (c) The Case Management Conference shall take place one (1) week after the
25 Initial Disclosures/Case Management Statement Date (or on the first Friday following that one
26 week period that the Court is in session), at 1:30 p.m. The case management conference
27 currently set for November 12, 2004 is VACATED.
28

1 13. Plaintiffs will provide notice of the re-set Case Management Conference and
2 related dates by no later than five (5) court days after notice of entry of the Court's Arbitration
3 Order.

4 IT IS SO ORDERED.

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6 DATED: October 29, 2004

/s/ Jeffrey S. White

THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT COURT JUDGE

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