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12 Attorneys for Defendant,  
BEST BUY STORES, L.P.  
13 (erroneously sued as BEST BUY CO., INC.)

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN FRANCISCO DIVISION**

18 JASMEN HOLLOWAY, AMY GARCIA,  
CHERYL CHAPPEL, ERIC  
19 BLACKSHER, JESSICA TREAS,  
LAWRENCE SANTIAGO, JR.,  
20 MUEMBO MUANZA, MAURICE  
CALHOUN, NICHOLAS DIXON and  
21 SUSAN MYERS-SNYDER, on behalf of  
themselves and all others similarly situated,

22 Plaintiffs,

23 v.

24 BEST BUY CO., INC., and BEST BUY  
25 STORES, L.P.

26 Defendant.

Case No. C 05-05056 PJH (MEJ)

[Hon. Phyllis J. Hamilton]

**DEFENDANTS BEST BUY CO., INC.' AND  
BEST BUY STORES, L.P.'S ANSWER TO  
PLAINTIFFS' SECOND AMENDED  
COMPLAINT**

Action filed: December 8, 2005

1 In response to the Second Amended Complaint (“SAC”) on file herein, defendants Best  
2 Buy Co., Inc. and Best Buy Stores, L.P. (collectively “Best Buy”)<sup>1</sup> hereby answer, aver and plead  
3 as follows:

4 **INTRODUCTION**

5 1. Answering Paragraph 1 of the SAC, Best Buy Stores, L.P. admits that it is a  
6 national retail electronics seller that provides technology products to its customers. Except as so  
7 admitted, Best Buy denies each and every allegation contained in said paragraph.

8 2. Answering Paragraph 2 of the SAC, Best Buy denies each and every allegation  
9 contained in said paragraph.

10 3. Answering Paragraph 3 of the SAC, Best Buy denies the allegations contained  
11 therein.

12 4. Answering Paragraph 4 of the SAC, Best Buy denies the allegations contained  
13 therein.

14 5. Answering Paragraph 5 of the SAC, Best Buy Stores, L.P. admits that it promotes  
15 many managers from within the company. Except as so admitted, Best Buy denies each and  
16 every allegation contained in said paragraph.

17 6. Answering Paragraph 6 of the SAC, Best Buy admits that this case is brought as a  
18 purported class action. Except as so admitted, Best Buy denies that Plaintiffs’ allegations are  
19 suitable for class treatment under Rule 23 of the Federal Rules of Civil Procedure and further  
20 denies each and every allegation contained in said paragraph.

21 7. Answering Paragraph 7 of the SAC, Best Buy denies all allegations of  
22 discriminatory practices or policies and all claims for relief, including back pay, front pay,  
23 punitive damages, injunctive relief and/or rightful place relief. Therefore, Best Buy denies each  
24 and every allegation in Paragraph 7 of the SAC.

25 \_\_\_\_\_  
26 <sup>1</sup> Best Buy Co., Inc. avers that it is an improper Defendant and should be dismissed. Based  
27 on a reasonable inquiry under the circumstances, and except where otherwise specifically  
28 noted, Best Buy Co., Inc. avers, pleads and answers jointly with Best Buy Stores, L.P. See  
Defendant Best Buy Stores, L.P.’s (erroneously sued as Best Buy Co., Inc.) Amended  
Certification of Interested Entities or Persons.

**JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT**

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2 8. Answering Paragraph 8 of the SAC, Best Buy denies that Plaintiffs have stated  
3 claims or are otherwise entitled to relief under Title VII of the Civil Rights Act of 1964, 42  
4 U.S.C. §§ 2000(e), et. seq., 42 U.S.C. § 1981 and/or the California Fair Employment & Housing  
5 Act, Government Code §§ 12940, et seq. Best Buy otherwise admits the allegations contained in  
6 said paragraph.

7 9. Answering Paragraph 9 of the SAC, Best Buy denies that venue is proper in this  
8 district, per the provisions of 42 U.S.C. §§ 2000e-5(f)(3) and/or 28 U.S.C. § 1404. Best Buy  
9 further denies that Plaintiffs' allegations are suitable for class treatment under Rule 23 of the  
10 Federal Rules of Civil Procedure and/or that Best Buy engaged in any wrongful conduct. Best  
11 Buy otherwise admits the allegations contained in said paragraph.

12 10. Answering Paragraph 10 of the SAC, Best Buy admits that, based on the  
13 allegations in the SAC, intra-district assignment is proper in the San Francisco/Oakland Division.  
14 Except as so admitted, Best Buy denies each and every allegation contained in said paragraph.

**PARTIES**

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16 11. Answering Paragraph 11 of the SAC, Best Buy admits that Plaintiff Jasmen  
17 Holloway is an African-American female who was employed by Best Buy Stores, L.P. from  
18 January 2001 to September 2005. Best Buy is without sufficient knowledge or information to  
19 form a belief as to the truth of Ms. Holloway's allegation that she resided in Vallejo, California.  
20 Except as so admitted, Best Buy denies each and every allegation contained in said paragraph.

21 12. Answering Paragraph 12 of the SAC, Best Buy admits that Plaintiff Amy Garcia is  
22 a female who was employed by Best Buy Stores, L.P. from August 2001 to October 2006. Best  
23 Buy is without sufficient knowledge or information to form a belief as to the truth of Ms. Garcia's  
24 allegation that she resides in Chico, California. Except as so admitted, Best Buy denies each and  
25 every allegation contained in said paragraph.

26 13. Answering Paragraph 13 of the SAC, Best Buy admits that Plaintiff Cheryl  
27 Chappel is an African-American female who resides in Chula Vista, California and has been  
28

1 employed by Best Buy Stores, L.P. since July 2001. Except as so admitted, Best Buy denies each  
2 and every allegation contained in said paragraph.

3 14. Answering Paragraph 14 of the SAC, Best Buy admits that Plaintiff Eric Blacksher  
4 is an African-American male who applied to Best Buy Stores, L.P.'s Santa Clarita store in  
5 November 2005. Except as so admitted, Best Buy denies each and every allegation contained in  
6 said paragraph.

7 15. Answering Paragraph 15 of the SAC, Best Buy admits that Plaintiff Jessica Treas  
8 is a Latina female who was employed by Best Buy Stores, L.P. from July 1999 to February 2006,  
9 during which time she worked at its Pleasant Hill, Pinole, Union City, and Emeryville stores.  
10 Best Buy is without sufficient knowledge or information to form a belief as to the truth of Ms.  
11 Treas's allegation that she resides in Richmond, California. Except as so admitted, Best Buy  
12 denies each and every allegation contained in said paragraph.

13 16. Answering Paragraph 16 of the SAC, Best Buy admits that Plaintiff Lawrence  
14 Santiago, Jr. is a Latino male who was employed by Best Buy Stores, L.P. from July 2003 to May  
15 2006 at its Blossom Hill store. Best Buy is without sufficient knowledge or information to form a  
16 belief as to the truth of Mr. Santiago's allegation that he resided in San Jose, California. Except  
17 as so admitted, Best Buy denies each and every allegation contained in said paragraph.

18 17. Answering Paragraph 17 of the SAC, Best Buy admits that Plaintiff Muenbo  
19 Muanza is an African-American male who was employed by Best Buy Stores, L.P. from  
20 September 2004 to June 2006. Best Buy is without sufficient knowledge or information to form a  
21 belief as to the truth of Mr. Muanza's allegation that he resides in Hercules, California. Except as  
22 so admitted, Best Buy denies each and every allegation contained in said paragraph.

23 18. Answering Paragraph 18 of the SAC, Best Buy admits that Plaintiff Maurice  
24 Calhoun is an African-American male who was employed by Best Buy Stores, L.P. from October  
25 2003 through April, 2007. Best Buy is without sufficient knowledge or information to form a  
26 belief as to the truth of Mr. Calhoun's allegation that he resides in Oakland, California. Except as  
27 so averred, Best Buy denies each and every allegation contained in said paragraph.

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1           19.     Answering Paragraph 19 of the SAC, Best Buy admits that Plaintiff Nicholas  
2 Dixon is an African-American male who was employed by Best Buy Stores, L.P. from October  
3 2003 to June 2005. Best Buy is without sufficient knowledge or information to form a belief as to  
4 the truth of Mr. Dixon’s allegation that he resides in Oakland, California. Except as so averred,  
5 Best Buy denies each and every allegation contained in said paragraph.

6           20.     Answering Paragraph 20 of the SAC, Best Buy admits that Plaintiff Susan Myers-  
7 Snyder is a female who applied to Best Buy Stores, L.P.’s Palm Desert store in July 2005. Best  
8 Buy is without sufficient knowledge or information to form a belief as to the truth of Ms. Myers-  
9 Snyder’s allegation that she resides in Palm Springs, California. Except as so admitted, Best Buy  
10 denies each and every allegation contained in said paragraph.

11          21.     Answering Paragraph 21 of the SAC, Best Buy Co., Inc. admits it is a Minnesota  
12 corporation. Except as so admitted, Best Buy Co., Inc. denied each every allegation contained in  
13 said paragraph.

14          22.     Answering Paragraph 22 of the SAC, Best Buy Stores, L.P. admits that it owns  
15 and operates retail stores in California and throughout the United States. Except as so admitted,  
16 Best Buy Stores, L.P. denies each and every allegation contained in said paragraph.

17          23.     Answering Paragraph 23 of the SAC, Best Buy Stores, L.P. admits the allegations  
18 contained therein.

19                   **ALLEGATIONS OF DISCRIMINATORY PRACTICE OR POLICY**

20          24.     Answering Paragraph 24 of the SAC, Best Buy denies each and every allegation  
21 contained therein.

22          25.     Answering Paragraph 25 of the SAC, Best Buy denies each and every allegation  
23 contained therein.

24          26.     Answering Paragraph 26 of the SAC, Best Buy denies each and every allegation  
25 contained therein.

26          27.     Answering Paragraph 27 of the SAC, Best Buy denies each and every allegation  
27 contained therein.

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1           28.     Answering Paragraph 28 of the SAC, Best Buy denies each and every allegation  
2 contained therein.

3           29.     Answering Paragraph 29 of the SAC, Best Buy Stores, L.P. admits that it employs  
4 several job classifications. Except as so admitted, Best Buy denies each and every allegation  
5 contained in said paragraph.

6           30.     Answering Paragraph 30 of the SAC, Best Buy Stores, L.P. admits that it employs  
7 several job classifications. Except as so admitted, Best Buy denies each and every allegation  
8 contained therein.

9           31.     Answering Paragraph 31 of the SAC, Best Buy Stores, L.P. admits that major  
10 electronic sales represent a significant proportion of Best Buy's business. Except as so admitted,  
11 Best Buy denies each and every allegation contained in said paragraph.

12          32.     Answering Paragraph 32 of the SAC, Best Buy denies each and every allegation  
13 contained therein.

14          33.     Answering Paragraph 33 of the SAC, Best Buy denies each and every allegation  
15 contained therein.

16          34.     Answering Paragraph 34 of the SAC, Best Buy denies each and every allegation  
17 contained therein.

18          35.     Answering Paragraph 35 of the SAC, Best Buy denies each and every allegation  
19 contained therein.

20          36.     Answering Paragraph 36 of the SAC, Best Buy denies each and every allegation  
21 contained therein.

22          37.     Answering Paragraph 37 of the SAC, Best Buy denies each and every allegation  
23 contained therein.

24          38.     Answering Paragraph 38 of the SAC, Best Buy denies each and every allegation  
25 contained therein.

26          39.     Answering Paragraph 39 of the SAC, Best Buy denies each and every allegation  
27 contained therein.

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1           40.     Answering Paragraph 40 of the SAC, Best Buy denies each and every allegation  
2 contained therein.

3           41.     Answering Paragraph 41 of the SAC, Best Buy Stores, L.P. admits that it has a  
4 bonus program for employment referrals. Except as so admitted, Best Buy denies each and every  
5 allegation contained in said paragraph.

6           42.     Answering Paragraph 42 of the SAC, Best Buy Stores, L.P. admits that it uses tests  
7 in certain facets of employment. Except as so admitted, Best Buy denies each and every  
8 allegation contained in said paragraph.

9           43.     Answering Paragraph 43 of the SAC, Best Buy Stores, L.P. admits that it uses an  
10 internal Job Opening System (“JOS”). Except as so admitted, Best Buy denies each and every  
11 allegation contained in said paragraph.

12           44.     Answering Paragraph 44 of the SAC, Best Buy denies each and every allegation  
13 contained therein.

14           45.     Answering Paragraph 45 of the SAC, Best Buy denies each and every allegation  
15 contained in said paragraph.

16           46.     Answering Paragraph 46 of the SAC, Best Buy denies each and every allegation  
17 contained in said paragraph.

18                           **CLAIMS OF ALLEGEDLY REPRESENTATIVE PLAINTIFFS**

19           **Jasmen Holloway**

20           47.     Answering Paragraph 47 of the SAC, Best Buy Stores, L.P. affirmatively avers  
21 that Ms. Holloway was employed at the Marin City Best Buy store from January 2001 until  
22 September 2005. Best Buy denies that Ms. Holloway was employed by Best Buy Co., Inc. Best  
23 Buy otherwise admits the allegations contained therein.

24           48.     Answering Paragraph 48 of the SAC, Best Buy admits that Ms. Holloway accepted  
25 a position at Best Buy Stores, L.P. as part time customer service specialist / cashier. Except as so  
26 admitted, Best Buy denies each and every allegation contained in said paragraph.

27           49.     Answering Paragraph 49 of the SAC, Best Buy denies each and every allegation  
28 contained therein.

1           50.     Answering Paragraph 50 of the SAC, Best Buy denies each and every allegation  
2 contained therein.

3           51.     Answering Paragraph 51 of the SAC, Best Buy avers as follows:

- 4           A.     Best Buy admits that Ms. Holloway has complained about lack of  
5                 coaching.
- 6           B.     Best Buy is without sufficient knowledge or information to form a belief as  
7                 to the truth of the following allegations:
- 8                 1.     Whether a senior position in the Wireless Department opened up on  
9                         or about February 2005 and/or whether Ms. Holloway was  
10                        informed that she was eligible and should apply for said position;
- 11                2.     Whether the position thereafter became unavailable; and/or
- 12                3.     Whether the position was listed on JOS and/or given to a Caucasian  
13                        employee.
- 14           C.     Except as so averred, Best Buy denies each and every allegation contained  
15                 in said paragraph.

16           52.     Answering Paragraph 52 of the SAC, Best Buy admits that Ms. Holloway applied  
17 and was interviewed for a full-time Operations Senior position in August 2005. Best Buy  
18 affirmatively avers that Ms. Holloway withdrew her application for promotion to this position  
19 during and/or immediately after her interview. Except as so admitted, Best Buy denies each and  
20 every allegation contained in said paragraph.

21           53.     Answering Paragraph 53 of the SAC, Best Buy avers as follows:

- 22           A.     Best Buy admits that Ms. Holloway was not employed in any Car Audio  
23                 Supervisor, Appliance Sales Representative, and/or Administrative  
24                 Corporate positions in or around September 2004, April 2005 and August  
25                 2005, respectively.
- 26           B.     Best Buy denies that Ms. Holloway sought promotion to any Appliance  
27                 Sales representative position in or around April 2005.



- 1 C. Best Buy is without sufficient knowledge or information to form a belief as  
2 to the truth of Ms. Holloway's allegations that she sought promotions to  
3 Car Audio Supervisor and Administrative Corporate positions.
- 4 D. Except as so averred, Best Buy denies each and every allegation contained  
5 within said paragraph.
- 6 54. Answering Paragraph 54, Best Buy denies each and every allegation contained  
7 therein.
- 8 55. Answering Paragraph 55 of the SAC, Best Buy avers as follows:
- 9 A. Best Buy admits that Ms. Holloway did not receive a raise in March 2005.
- 10 B. Best Buy is without sufficient knowledge or information to form a belief as  
11 to the truth of the following allegations:
- 12 1. Whether Ms. Holloway requested a pay increase in March 2005;  
13 and/or  
14 2. Whether Ms. Holloway was informed that she had reached her  
15 maximum salary cap.
- 16 C. Except as so averred, Best Buy denies each and every allegation contained  
17 in said paragraph.
- 18 56. Answering Paragraph 56 of the SAC, Best Buy avers as follows:
- 19 A. Best Buy admits that Ms. Holloway was not promoted in August 2005 and  
20 affirmatively avers that Ms. Holloway withdrew her application for  
21 promotion to this position during and/or immediately after her interview.
- 22 B. Best Buy admits that Ms. Holloway is no longer employed with Best Buy  
23 Stores, L.P.
- 24 C. Best Buy admits that, on May 17, 2005, Ms. Holloway lodged a complaint  
25 through Best Buy Stores, L.P.'s "Open Line" alleging employee  
26 harassment.
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- 1 D. Best Buy admits that, on June 4, 2005, Ms. Holloway lodged two  
2 complaints through Best Buy Stores, L.P.'s "Open Line," one alleging race  
3 discrimination and the other alleging gender discrimination.
- 4 E. Best Buy is without sufficient knowledge or information to form a belief as  
5 to the truth of Ms. Holloway's allegation that she filed a formal  
6 discrimination complaint with Best Buy Stores, L.P.'s Human Resources  
7 department in April 2005 and/or any discrimination complaint in August  
8 2005.
- 9 F. Except as so averred, Best Buy denies each and every allegation contained  
10 in said paragraph.
- 11 57. Answering Paragraph 57 of the SAC, Best Buy denies each and every allegation  
12 contained therein.
- 13 58. Answering Paragraph 58 of the SAC, Best Buy admits the allegations contained  
14 therein.
- 15 **Amy Garcia**
- 16 59. Answering Paragraph 59 of the SAC, Best Buy denies that Ms. Garcia was  
17 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained in said  
18 paragraph.
- 19 60. Answering Paragraph 60 of the SAC, Best Buy avers that it is without sufficient  
20 knowledge or information to form a belief as to the truth of Ms. Garcia's allegation that she  
21 repeatedly expressed interest in a promotion to a manager position. Except as so averred, Best  
22 Buy denies each and every allegation contained in said paragraph.
- 23 61. Answering Paragraph 61 of the SAC, Best Buy avers as follows:
- 24 A. Best Buy admits that Ms. Garcia was not promoted to Product Process  
25 Manager in January 2005.
- 26 B. Best Buy is without sufficient knowledge or information to form a belief as  
27 to the truth of Ms. Garcia's allegation that she stated in early January 2005  
28 that she wanted to apply for a Product Process Manager position.

1 C. Except as so averred, Best Buy denies each and every allegation contained  
2 in said paragraph.

3 62. Answering Paragraph 62 of the SAC, Best Buy denies each and every allegation  
4 contained therein.

5 63. Answering Paragraph 63 of the SAC, Best Buy denies each and every allegation  
6 contained therein.

7 64. Answering Paragraph 64 of the SAC, Best Buy denies each and every allegation  
8 contained therein.

9 65. Answering Paragraph 65 of the SAC, Best Buy denies each and every allegation  
10 contained therein.

11 66. Answering Paragraph 66 of the SAC, Best Buy denies that Ms. Garcia filed a  
12 charge of discrimination with the EEOC on or about October 6, 2005. According to Exhibit B to  
13 the SAC, Ms. Garcia signed her charge on September 17, 2005, which was received on October  
14 14, 2005. Best Buy otherwise admits the allegations contained in said paragraph.

15 **Cheryl Chappel**

16 67. Answering Paragraph 67 of the SAC, Best Buy denies that Ms. Chappel was  
17 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained therein.

18 68. Answering Paragraph 68 of the SAC, Best Buy avers as follows:

19 A. Best Buy admits that Ms. Chappel applied for the job of Operations  
20 Supervisor at the Chico Store in July 2003.

21 B. Best Buy admits that Ms. Chappel had prior experience in the Operations  
22 Department.

23 C. Best Buy affirmatively avers that Ms. Chappel was not promoted to  
24 Operations Supervisor in July, 2003, but denies that said decision was in  
25 any way wrongful, illegal and/or discriminatory in any manner.

26 D. Except as so averred, Best Buy denies each and every allegation contained  
27 in said paragraph.

28 69. Answering Paragraph 69 of the SAC, Best Buy avers as follows:

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- A. Best Buy denies that Ms. Chappel applied for a supervisor position in September 2004.
- B. Best Buy is without sufficient knowledge or information to form a belief as to the truth of Ms. Chappel’s allegation that she learned that a supervisor position was available in September 2004 at the Best Buy retail store in Mira Mesa, California.
- C. Best Buy admits that Ms. Chappel was not promoted to a supervisor position in September 2004, but denies that said decision was in any way wrongful, illegal and/or discriminatory in any manner; further, Best Buy affirmatively avers that the position was given to a female and a male.
- D. Except as so averred, Best Buy denies each and every allegation contained in said paragraph.

70. Answering Paragraph 70 of the SAC, Best Buy denies each and every allegation contained therein.

71. Answering Paragraph 71 of the SAC, Best Buy denies each and every allegation contained therein.

72. Answering Paragraph 72 of the SAC, Best Buy denies that Ms. Chappel filed a charge of discrimination with the EEOC on or about April 1, 2005. According to Exhibit C to the SAC, Ms. Chappel signed her charge on March 21, 2005, which was received on April 21, 2005. Best Buy otherwise admits the allegations contained in said paragraph.

**Eric Blacksher**

73. Answering Paragraph 73 of the SAC, Best Buy avers as follows:

- A. Best Buy admits that Plaintiff Eric Blacksher is an African-American male.
- B. Best Buy affirmatively avers that Mr. Blacksher applied to work at the Best Buy Stores, L.P.’s Santa Clarita store in November 2005, and was subsequently interviewed.

- 1 C. Best Buy affirmatively avers that Mr. Blacksher represented in his  
2 employment application that he only had cashier and customer service  
3 experience from working at Six Flags in California.
- 4 D. Except as so admitted, Best Buy denies each and every allegation  
5 contained in said paragraph.
- 6 74. Answering Paragraph 74 of the SAC, Best Buy Best Buy avers as follows:
- 7 A. Best Buy admits that Mr. Blacksher submitted an on-line application for a  
8 position at the Best Buy Stores, L.P.'s Santa Clarita store. Best Buy  
9 affirmatively avers that Mr. Blacksher took and passed Best Buy's pre-  
10 hiring assessment.
- 11 B. Best Buy affirmatively avers that Mr. Blacksher subsequently participated  
12 in two in-person interviews.
- 13 C. Best Buy is without sufficient knowledge or information to form a belief as  
14 to the truth of Mr. Blacksher's allegations that he was informed that the  
15 store had job openings, that he has not been contacted regarding his  
16 application, or that he has been refused any open position.
- 17 D. Best Buy Stores, L.P. admits that it did not employ Mr. Blacksher.
- 18 E. Except as so averred, Best Buy denies each and every allegation contained  
19 in said paragraph.

20 75. Answering Paragraph 75 of the SAC, Best Buy denies each and every allegation  
21 contained therein.

22 76. Answering Paragraph 76 of the SAC, Best Buy denies that Mr. Blacksher filed a  
23 charge of discrimination with the EEOC on or about April 11, 2006. According to Exhibit D to  
24 the SAC, Mr. Blacksher signed his charge on March 27, 2006. Best Buy otherwise admits the  
25 allegations contained in said paragraph.

26 **Jessica Treas**

27 77. Answering Paragraph 77 of the SAC, Best Buy denies that Ms. Treas worked at  
28 Best Buy Stores, L.P. as a customer service senior. Best Buy denies that Ms. Treas was

1 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained in said  
2 paragraph.

3 78. Answering Paragraph 78 of the SAC, Best Buy avers as follows:

4 A. Best Buy admits that Ms. Treas stated in her employment application that  
5 she had worked in assistant manager positions.

6 B. Best Buy admits that Ms. Treas accepted a job offer for the position of  
7 CSR II (operations service specialist II).

8 C. Except as so admitted, Best Buy denies each and every allegation  
9 contained in said paragraph.

10 79. Answering Paragraph 79 of the SAC, Best Buy admits that Ms. Treas was  
11 promoted to customer service manager (operations manager) at the Pleasant Hill store, and then  
12 transferred as customer service manager (operations manager) to the Pinole, Union City, and  
13 Emeryville stores. Except as so admitted, Best Buy denies each and every allegation contained  
14 therein.

15 80. Answering Paragraph 80 of the SAC, Best Buy affirmatively avers that Ms. Treas  
16 voluntarily stepped down from manager to supervisor, and from supervisor to senior. Best Buy  
17 admits that Ms. Treas was replaced by white male employees on the two occasions on which she  
18 voluntarily stepped down. Except as so averred, Best Buy denies each and every allegation  
19 contained in said paragraph.

20 81. Answering Paragraph 81 of the SAC, Best Buy denies each and every allegation  
21 contained therein.

22 82. Answering Paragraph 82 of the SAC, Best Buy denies each and every allegation  
23 contained therein.

24 83. Answering Paragraph 83 of the SAC, Best Buy admits that Ms. Treas asserted  
25 complaints, but denies that said complaints alleged any discrimination. Except as otherwise  
26 averred, Best Buy denies each and every allegation contained in said paragraph.

27 84. Answering Paragraph 84 of the SAC, Best Buy denies each and every allegation  
28 contained therein.

1           85.     Answering Paragraph 85 of the SAC, Best Buy denies that Ms. Treas filed a  
2 charge of discrimination with the EEOC on or about September 15, 2006. According to Exhibit E  
3 to the SAC, Ms. Treas signed her charge on September 13, 2006, which was received on  
4 September 21, 2006. Best Buy otherwise admits the allegations contained in said paragraph.

5     **Lawrence Santiago**

6           86.     Answering Paragraph 86 of the SAC, Best Buy denies that Mr. Santiago was  
7 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained therein.

8           87.     Answering Paragraph 87 of the SAC, Best Buy avers as follows:

- 9           A.     Best Buy admits that Mr. Santiago stated in his employment application  
10                 that he had worked as a slot supervisor at Atlantis Hotel and Casino for six  
11                 months and at Fitzgerald's Hotel and Casino for an unknown period  
12                 between May 2000 and August 2002.
- 13           B.     Best Buy admits that Mr. Santiago accepted a job offer at Best Buy Stores,  
14                 L.P. for the position of operations service specialist II.
- 15           C.     Except as so admitted, Best Buy denies each and every allegation  
16                 contained in said paragraph.

17           88.     Answering Paragraph 88 of the SAC, Best Buy denies each and every allegation  
18 contained therein.

19           89.     Answering Paragraph 89 of the SAC, Best Buy avers as follows:

- 20           A.     Best Buy is without sufficient information or knowledge to form a belief as  
21                 to the truth of the following allegations:
- 22                 1.     Whether Mr. Santiago submitted five applications for promotion in  
23                         2003 and was denied either interviews and/or promotions to those  
24                         positions for which he allegedly applied; and/or
- 25                 2.     Whether Mr. Santiago applied for ten positions from late 2004  
26                         through 2006 and was denied promotions to any of these positions  
27                         for which he allegedly applied.

- 1 B. Best Buy Stores, L.P. affirmatively avers that Mr. Santiago was promoted  
2 to Appliance Supervisor in April 2004 and to Appliance Pro in June 2005.  
3 C. Except as otherwise averred, Best Buy denies each and every allegation  
4 contained in said paragraph.

5 90. Answering Paragraph 90 of the SAC, Best Buy denies each and every allegation  
6 contained therein.

7 91. Answering Paragraph 91 of the SAC, Best Buy denies each and every allegation  
8 contained therein.

9 92. Answering Paragraph 92 of the SAC, Best Buy denies each and every allegation  
10 contained therein.

11 93. Answering Paragraph 93 of the SAC, Best Buy avers as follows:

12 A. Best Buy admits that on December 22, 2004, Mr. Santiago lodged a  
13 complaint alleging race discrimination.

14 B. Best Buy admits that on April 25, 2006, Mr. Santiago lodged a complaint  
15 regarding the elimination of his position.

16 C. Best Buy admits that on May 15, 2006, Mr. Santiago lodged a complaint  
17 regarding the delivery of his severance package.

18 D. Best Buy affirmatively avers that it maintains a confidential internal  
19 reporting and complaint system called The Open Line.

20 E. Except as otherwise averred, Best Buy denies each and every allegation  
21 contained in said paragraph.

22 94. Answering Paragraph 94 of the SAC, Best Buy denies each and every allegation  
23 contained therein.

24 95. Answering Paragraph 95 of the SAC, Best Buy admits the allegations contained  
25 therein.

26 **Muembo Muanza**

27 96. Answering Paragraph 96 of the SAC, Best Buy denies that Mr. Muanza was  
28 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained therein.



- 1            97.    Answering Paragraph 97 of the SAC, Best Buy avers as follows:
- 2            A.    Best Buy admits that Mr. Muanza represented in his job application that he
- 3            worked in sales and inventory at The Good Guys from September 1999
- 4            through February 2001.
- 5            B.    Best Buy admits that Mr. Muanza represented in his job application that he
- 6            worked in lumber sales at Home Depot from May 2002 through September
- 7            2003.
- 8            C.    Best Buy admits that Mr. Muanza accepted a position at Best Buy as a
- 9            Product Processing Specialist.
- 10          D.    Best Buy admits that, as of February, 2006, three out of eighteen
- 11          employees in the Product Processing department were Caucasian.
- 12          E.    Best Buy is without sufficient knowledge or information to form a belief as
- 13          to the truth of Mr. Muanza's allegation that he was informed that there
- 14          were no sales openings.
- 15          F.    Except as so averred, Best Buy denies each and every allegation contained
- 16          in said paragraph.
- 17          98.    Answering Paragraph 98 of the SAC, Best Buy denies each and every allegation
- 18          contained therein.
- 19          99.    Answering Paragraph 99 of the SAC, Best Buy admits that Mr. Muanza worked in
- 20          the positions of part-time merchandising specialist and part-time inventory specialist during his
- 21          employment with Best Buy Stores, L.P. Best Buy avers that Mr. Muanza was offered a full time
- 22          position but declined it. Except as so averred, Best Buy denies each and every allegation
- 23          contained in said paragraph.
- 24          100.    Answering Paragraph 100 of the SAC, Best Buy denies each and every allegation
- 25          contained therein.
- 26          101.    Answering Paragraph 101 of the SAC, Best Buy admits the allegations contained
- 27          therein.
- 28          ///

1 **Maurice Calhoun**

2 102. Answering Paragraph 102 of the SAC, Best Buy denies that Mr. Calhoun was  
3 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained therein.

4 103. Answering Paragraph 103 of the SAC, Best Buy avers as follows:

- 5 A. Best Buy admits that Mr. Calhoun stated in his employment application  
6 that he: (1) held a sales/customer service job at D.S. Max from June, 2003  
7 through September, 2003; (2) held a delivery, customer service and sales  
8 job at Conway Western Express from September 2000 through April 2002;  
9 and (3) held a loading job at UPS from June 1999 through October 2000.
- 10 B. Best Buy admits that Mr. Calhoun accepted a position in Best Buy Stores,  
11 L.P.'s Inventory Department.
- 12 C. Best Buy admits that Mr. Calhoun expressed an interest in sales, as well as  
13 in a driver/delivery position.
- 14 D. Except as so averred, Best Buy denies each and every allegation contained  
15 in said paragraph.

16 104. Answering Paragraph 104 of the SAC, Best Buy admits that Mr. Calhoun  
17 expressed an interest in sales, but is without sufficient knowledge or information to form a belief  
18 as to whether Mr. Calhoun expressed his interest repeatedly. Best Buy is without sufficient  
19 knowledge or information to form a belief as to the truth of Mr. Calhoun's allegations about what  
20 he allegedly witnessed and/or that he was repeatedly informed that there were no openings for  
21 transfer to sales. Therefore, Best Buy denies each and every allegation contained in said  
22 paragraph.

23 105. Answering Paragraph 105 of the SAC, Best Buy denies each and every allegation  
24 contained therein.

25 106. Answering Paragraph 106 of the SAC, Best Buy avers as follows:

- 26 A. Best Buy admits that Mr. Calhoun was assigned to the position of project  
27 team specialist.

28

1 B. Best Buy admits that Mr. Calhoun requested and was given a transfer to the  
2 Digital Imaging Department where he sold cameras, and that his pay did  
3 not increase upon transfer.

4 C. Best Buy is without sufficient knowledge or information to form a belief as  
5 to the truth of Mr. Calhoun's allegation that his evaluation was delayed.

6 D. Except as so averred, Best Buy denies each and every allegation contained  
7 in said paragraph.

8 107. Answering Paragraph 107 of the SAC, Best Buy denies each and every allegation  
9 contained therein.

10 108. Answering Paragraph 108 of the SAC, Best Buy admits the allegations contained  
11 therein.

12 **Nicholas Dixon**

13 109. Answering Paragraph 109 of the SAC, Best Buy denies that Mr. Dixon was  
14 employed by Best Buy Co., Inc. Best Buy otherwise admits the allegations contained therein.

15 110. Answering Paragraph 110 of the SAC, Best Buy avers as follows:

16 A. Best Buy admits that Mr. Dixon represented in his employment application  
17 that he had three months of experience at WorldCom, including some  
18 experience in cellular sales.

19 B. Best Buy admits that Mr. Dixon's position was not on the sales floor.

20 C. Best Buy admits that Mr. Dixon was offered a part time position but was  
21 mistakenly classified as occasional/seasonal during a three month period,  
22 after which time he was classified as permanent. Best Buy denies that Mr.  
23 Dixon was paid less as a result of his classification as occasional/seasonal  
24 and/or that said misclassification was in any way intentional and/or  
25 discriminatory.

26 D. Except as so averred, Best Buy denies each and every allegation contained  
27 in said paragraph.

28 ///



1           115. Answering Paragraph 115 of the SAC, Best Buy admits the allegations contained  
2 therein.

3 **Susan Myers-Snyder**

4           116. Answering Paragraph 116 of the SAC, Best Buy admits that Susan Myers-Snyder  
5 is a female who applied to Best Buy Stores, L.P.'s Palm Desert store. Except as so admitted, Best  
6 Buy denies each and every allegation contained in said paragraph.

7           117. Answering Paragraph 117 of the SAC, Best Buy admits that Ms. Myers-Snyder  
8 represented in her application that she possessed 16 years of experience at Circuit City. Best Buy  
9 is without sufficient knowledge or information to form a belief as to the truth of Ms. Myers-  
10 Snyder's allegation that she was recommended to Best Buy for employment. Best Buy avers that  
11 Ms. Myers-Snyder passed Best Buy's pre-hiring assessment. Except as so averred, Best Buy  
12 denies each and every allegation contained in said paragraph.

13           118. Answering Paragraph 118 of the SAC, Best Buy denies each and every allegation  
14 contained in said paragraph.

15           119. Answering Paragraph 119 of the SAC, Best Buy admits the allegations contained  
16 in said paragraph.

17 **CLASS ACTION ALLEGATIONS**

18           120. Answering Paragraph 120 of the SAC, Best Buy admits that this case is brought as  
19 a purported class action. Except as so admitted, Best Buy denies that Plaintiffs' allegations are  
20 suitable for class treatment under Rule 23 of the Federal Rules of Civil Procedure and further  
21 denies each and every allegation contained in said paragraph.

22           121. Answering Paragraph 121 of the SAC, Best Buy admits that this case is brought as  
23 a purported class action and that Plaintiffs have brought their claims on a class basis. Except as  
24 so admitted, Best Buy denies that Plaintiffs' allegations are suitable for class treatment under  
25 Rule 23 of the Federal Rules of Civil Procedure and further denies each and every allegation  
26 contained in said paragraph.

27           122. Answering Paragraph 122 of the SAC, Best Buy denies each and every allegation  
28 contained therein.















1           10.     The SAC, and each cause of action asserted therein, is barred in whole or in part  
2 because Plaintiffs unreasonably failed to take advantage of any preventative or corrective  
3 opportunities provided by Best Buy, or to otherwise avoid harm.

4           11.     Plaintiffs' claims are barred because, should any allegations of unlawful conduct  
5 contained in the SAC are found to have merit (which Best Buy denies), Best Buy affirms that it  
6 took prompt and effective action to remedy any such acts and therefore has no liability for them.

7           12.     Plaintiffs' claims are barred in whole or in part by the doctrine of laches because  
8 Plaintiffs, to the extent they suffered any harm, did not act promptly to notify Best Buy of the  
9 harm and by sitting on their rights allowed further harm to occur.

10          13.     Plaintiffs' claims are barred in whole or in part by the doctrine of unclean hands  
11 and/or estoppel by reason of the conduct and actions of Plaintiffs and/or each of them.

12          14.     Plaintiffs' claims are barred in whole or in part by the doctrine of waiver by reason  
13 of the conduct and actions of Plaintiffs and/or each of them.

14          15.     Plaintiffs' claims are improperly joined in a single action in violation of Rule 20 of  
15 the Federal Rules of Civil Procedure, and therefore should be dismissed or severed and proceeded  
16 with separately.

17          16.     Plaintiffs' claims are improperly venued in the Northern District of California and  
18 should be dismissed or transferred to the appropriate district.

19          17.     Plaintiffs' claims are barred in whole or in part by their failure to mitigate, or  
20 reasonably attempt to mitigate, their alleged damages.

21          18.     Some or all of the Plaintiffs' damages, if any, the existence and/or extent of which  
22 Best Buy denies, may be barred by the after-acquired evidence doctrine.

23          19.     Plaintiffs' claims are barred in whole or in part by Plaintiffs' failure to perform in  
24 accordance with California Labor Code sections 2854, 2856-59, and 2863, as applicable.

25          20.     Best Buy denies that Plaintiffs' gender, race, color and/or national origin or any  
26 other impermissible factor played any role in the employment decisions relating to Plaintiffs.  
27 Alternatively, even if some impermissible factor had played a role in any of those decisions,  
28

1 which Best Buy denies, the same decision would have been reached for legitimate  
2 nondiscriminatory reasons.

3 21. To the extent Plaintiffs can state a prima facie case of discrimination based on  
4 disparate impact, which Best Buy denies, Best Buy's actions generally and with respect to  
5 Plaintiffs individually were job related and consistent with business necessity.

6 22. Plaintiffs cannot maintain a class action because they lack standing to assert claims  
7 individually and/or on behalf of a putative class.

8 23. Best Buy Co., Inc. is not a proper defendant to this action.

9 Best Buy shall seek leave of court to amend its Answer to add additional averments and/or  
10 defenses that it may discover as the case progresses.

11 **PRAYER**

12 WHEREFORE, Best Buy prays that Plaintiffs take nothing by reason of the SAC, that  
13 their claims be dismissed with prejudice, that judgment be entered in favor of Best Buy as to all  
14 of Plaintiffs' claims, and that Best Buy be awarded its costs and attorneys' fees in the matter and  
15 such other and further relief as the Court deems proper.

16

17

18 DATED: March 10, 2008

**ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

19

By: /s/ Roman M. Silberfeld  
Roman M. Silberfeld

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21

**MORGAN, LEWIS & BOCKIUS LLP**

22

George A. Stohner  
Melinda S. Riechert

23

**ATTORNEYS FOR DEFENDANTS  
BEST BUY COMPANY, INC. AND  
BEST BUY STORES, L.P.**

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