

1 Morris J. Baller, #048928
2 Roberta L. Steele, #188198
3 Nina Rabin, #229403
4 GOLDSTEIN, DEMCHAK, BALLER,
5 BORGAN & DARDARIAN
6 300 Lakeside Dr., Suite 1000
7 Oakland, CA 94612
8 (510) 763-9800 (telephone)
9 (510) 835-1417 (telefax)

10 Paul Strauss, #153937
11 Robert S. Libman, #139283
12 MINER, BARNHILL & GALLAND
13 14 W. Erie Street
14 Chicago, IL 60610
15 (312) 751-1170 (telephone)
16 (312) 751-0438 (telefax)

17 Attorneys for Plaintiffs

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 LARRY HOUSTON and CLIFTON E. COOPER,)
21 on behalf of themselves and all others similarly)
22 situated,)

23 Plaintiffs,

24 vs.

25 CINTAS CORPORATION,

26 Defendant.

27 Case No. 05-03145 JCS

28 CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL

ADR

ORIGINAL
FILED

AUG - 3 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

E-filing

1 Plaintiffs Larry Houston and Clifton E. Cooper, on behalf of themselves and all other persons
2 similarly situated, complain of defendant Cintas Corporation (“Cintas” or the “Company”) as follows.

3 **NATURE OF THE CASE**

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

17 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

18 2. Jurisdiction. This Court has original jurisdiction of plaintiffs’ Section 1981 claims
19 pursuant to 28 U.S.C. §§1331 and 1343(a)(4). The Court has supplemental jurisdiction of plaintiffs’
20 UCL claims pursuant to 28 U.S.C. §1367.

21 3. Venue. Venue is proper in this District pursuant to 28 U.S.C. §1391(c). Cintas is
22 subject to personal jurisdiction in this District in that it maintains facilities and business operations in
23 this District, employed plaintiff Larry Houston and members of the class in this District, and
24 committed some of the discriminatory acts alleged herein in this District.

25 4. Intradistrict Assignment. Venue is proper in the San Francisco Division of this Court
26 pursuant to Local Rule 3-2(c) and (d) because a substantial part of the events which give rise to the
27 claims asserted in this Complaint occurred in Alameda County. In particular, Cintas employed
28 plaintiff Larry Houston and employs, employed, or rejected employment applications of, other class

1 members in its facility in San Leandro, Alameda County, California, and there committed acts of
2 discrimination in employment as alleged in this complaint.

3 **PARTIES**

4 **Plaintiffs**

5 5. Plaintiff Larry Houston is an African American male and a resident of Oakland,
6 California. In or about March 2002, Mr. Houston became an employee of Cintas as a management
7 trainee in the San Leandro facility. At the outset of his employment, Mr. Houston entered into an
8 agreement with Cintas in which Mr. Houston would take part in a training program for ninety days, at
9 the end of which he would become a Service Manager. Contrary to the terms of this agreement, and in
10 spite of Mr. Houston's outstanding qualifications and demonstrated managerial abilities, Cintas failed
11 to promote Mr. Houston to a management position at the end of the ninety-day training period. In
12 August 2002, Mr. Houston was constructively discharged from Cintas as a result of the intolerable
13 working conditions to which he had been subjected, including the failure to promote him to a
14 management position for which he was well qualified at the end of his ninety-day training period.

15 6. Plaintiff Clifton E. Cooper is an African American male. During the period in which
16 the events in this Complaint occurred, he was a resident of Los Angeles, California. In or about July
17 2000, Mr. Cooper was hired as a Service Manager for Cintas' Pico Rivera facility. After two years as
18 Service Manager, he was promoted to Assistant General Manager of the Pico Rivera plant, and shortly
19 thereafter, promoted again to Branch Manager of the El Segundo facility in West Los Angeles. During
20 his time as an Assistant General Manager and Branch Manager at Cintas, Mr. Cooper learned of
21 significant salary disparities between himself and white managers of comparable background and
22 experience. After only six months as Branch Manager, in January 2004, Mr. Cooper was demoted to
23 Service Manager and received a major cut in his salary, in spite of his outstanding qualifications and
24 demonstrated managerial abilities. In July 2004, he was constructively discharged from Cintas, as a
25 result of the intolerable working conditions to which he had been subjected, including the unwarranted
26 demotion, baseless performance evaluations, pay cuts, and significant disparities he discovered
27 between his salary and that of white managers of comparable background and experience.
28

1 a. On February 17, 2004, Mr. Cooper filed a Charge of Discrimination with the
2 United States Equal Employment Opportunity Commission (EEOC), which was also cross-filed with
3 the California Department of Fair Employment and Housing (DFEH). Mr. Cooper's Charge alleged
4 the same discriminatory practices against himself and the class as alleged in this Complaint. A copy of
5 Mr. Cooper's EEOC Charge is attached hereto as Exhibit A.

6 b. Upon expiration of the period provided by law for the EEOC and/or DFEH to
7 investigate and conciliate the Charge, Mr. Cooper will request issuance of Notice of Right to Sue and
8 plaintiffs will amend this Complaint to state individual and class claims under Title VII of the Civil
9 Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq., and the California Fair Employment and
10 Housing Act, Government Code § 12940 et seq.

11 **Defendant**

12 7. Cintas is a national corporation headquartered in Cincinnati, Ohio. For fiscal year 2004,
13 Cintas reported \$2.8 billion in sales and \$272 million in profits.

14 8. Defendant Cintas' major business involves renting uniforms, mats, and towels to
15 commercial enterprises.

16 9. Defendant Cintas has more than 27,000 employees and operates approximately 344
17 rental facilities across the country in its Rental Division.

18 10. The employees in Cintas' Rental Division rental facilities can be grouped into five
19 categories: (a) production, or laundry workers; (b) service department workers, including drivers, also
20 known as service sales representatives ("SSRs"), and helpers; (c) sales employees; (d) office and
21 human resource employees; and (e) supervisors and managers.

22 11. Management and supervisory positions in Cintas' Rental Division include the
23 following: (a) General Manager, (b) Branch Manager, (c) Production Manager (also known as plant
24 managers), (d) Service Manager, (e) Production Supervisor, (f) Stock Room Manager, and (g) Sales
25 Manager.

26 12. Cintas' production workers clean, repair, hang and assemble the uniforms and materials
27 to be delivered to the customers. Each shift of production workers is supervised by a Production
28 Supervisor. The production workers in a given facility are supervised by a Production Manager.

1 13. Drivers, or SSRs, deliver clean clothing, mats, and towels to customers and pick up
2 dirty items from customers. A single facility may have several groups of SSRs, each of which is
3 supervised by a Service Manager.

4 14. Cintas operates under a nationwide business plan that is established at its headquarters
5 in Cincinnati, Ohio and similarly implemented at each of its Rental Division facilities throughout the
6 country. The plan includes strategies and programs regarding methods of operation and service
7 systems.

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

13 **CLAIMS OF THE NAMED AND REPRESENTATIVE PLAINTIFFS**

14 **Plaintiff Larry Houston**

15 16. Representative Plaintiff Larry Houston was employed by Cintas from in or about March
16 2002 until August 2002.

17 17. In or about February 2002, Mr. Houston contacted the manager at Cintas' San Leandro
18 facility to inquire about employment opportunities for management positions. On the telephone, the
19 manager told Mr. Houston that management positions were available, and he should come to the
20 facility to discuss them. Shortly thereafter, Mr. Houston arrived at the San Leandro facility, and the
21 manager, upon meeting Mr. Houston in person, told him that no management positions were currently
22 available.

23 18. In a subsequent phone call, the manager of Cintas' San Leandro facility offered Mr.
24 Houston a position as a management trainee, in which he would accompany SSRs for ninety days, at
25 the end of which he would become a Service Manager. Mr. Houston accepted the position with the
26 understanding that after ninety days, he would become a Service Manager.

27 19. Shortly after Mr. Houston's initial ninety-day employment period, a Service Manager
28 position became available in the San Leandro facility. Mr. Houston expressed interest in the position

1 to the Human Resources Representative and the General Manager of the San Leandro facility.
2 Contrary to Cintas' prior commitment to Mr. Houston, the General Manager in San Leandro told Mr.
3 Houston that he would have to work for two years as an SSR before becoming a Service Manager

4 20. The Service Manager position in the San Leandro facility for which Mr. Houston
5 expressed interest was filled by a white male who, on information and belief, was a friend or
6 acquaintance of the General Manager of the San Leandro facility and who had been pre-selected for
7 the position.

8 21. Neither the initial ninety-day management trainee position, nor the two-year SSR
9 position subsequently offered to Mr. Houston, are part of or equivalent to Cintas' established 45-day
10 management training program for newly hired employees who have prior experience in management.

11 22. Mr. Houston was well qualified by his education, prior experience, and training for the
12 Service Manager position in the San Leandro facility, and for numerous other management positions in
13 Cintas. Mr. Houston had previously performed in positions similar to the Service Manager position for
14 other employers, and had experience in the administrative and managerial functions of that and other
15 Cintas management positions as well.

16 23. Because of his race, Cintas failed to promote Mr. Houston to, or select him for, a
17 management position despite its prior agreement to do so.

18 24. Because Cintas refused to give Mr. Houston a management position, he left Cintas and
19 assumed a management position in another company in August 2002.

20 **Plaintiff Clifton E. Cooper**

21 25. In or around July 2000, Mr. Cooper interviewed with Cintas in Los Angeles, and was
22 hired as a Service Manager for its Pico Rivera facility. At the time he was hired, upon information and
23 belief, Mr. Cooper was the only African American Service Manager in the entire Western Region,
24 which includes eleven facilities located throughout Southern California, Nevada, and Arizona.

25 26. After two years as Service Manager, he was promoted to Assistant General Manager of
26 the Pico Rivera plant. Shortly thereafter, in February 2003, he was promoted again to Branch Manager
27 of the El Segundo facility in West Los Angeles, after his immediate supervisor, the General Manager
28 of Pico Rivera, fought for his promotion. When he became Branch Manager, upon information and

1 belief, Mr. Cooper was the only minority of all the Branch and General Managers in the Western
2 Region.

3 27. In his capacity as Branch Manager at Cintas' El Segundo facility, Mr. Cooper learned
4 that there were significant disparities between his salary and those of similarly situated white
5 managers.

6 a. He learned that the preceding Branch Manager of the El Segundo facility, a
7 white man with no greater experience in the field, had been earning more per year than Mr. Cooper.

8 b. He learned that the person hired to replace him as Service Manager, an external
9 white male candidate who had lesser qualifications and experience, earned more per year than Mr.
10 Cooper was earning as a Branch Manager, despite the fact that the white Service Manager was
11 reporting to Mr. Cooper. When Mr. Cooper expressed disappointment about the salary disparity to
12 members of Cintas' upper management, they were unresponsive and no corrective action was taken.

13 28. Shortly after Mr. Cooper assumed the position of Branch Manager, upper level
14 managers began to make his working conditions intolerable. Several months after his promotion, a
15 corporate audit of the El Segundo facility was conducted, as is the general practice when a new Branch
16 Manager starts in a facility. Unsurprisingly, given the disorganized state of the facility when Mr.
17 Cooper arrived, the facility received a low audit score. Shortly after the audit, Mr. Cooper participated
18 in a conference call with the Regional Vice President and Senior Vice President for the Western
19 Region, who told Mr. Cooper that management expected the numbers to come up when the facility was
20 re-audited in June 2004. In January 2004, an Assistant Vice President, Office Manager, and a
21 management trainee showed up at the El Segundo facility unexpectedly and said they were there to
22 conduct a "pre-audit." They completed the pre-audit on a Friday and said it had raised concerns about
23 the facility. On the following Monday, on a conference call, management informed Mr. Cooper that he
24 was being demoted due to his low audit score and the fact that not enough progress had been made,
25 despite the fact that the re-audit for which he had been told to prepare was still five months away.

26 29. Upon information and belief, other facilities with white managers had failed multiple
27 audits similar to that conducted at the El Segundo facility and nothing had happened. Upon
28 information and belief, the El Segundo facility never had the re-audit.

1 37. Management positions, including relatively low-level management positions such as
2 production supervisors or stock room managers, are rarely filled by promotions of employees within
3 the Company. Instead, these positions are typically filled by new hires, many of whom have been
4 selected to participate in Cintas' Management Training Program.

5 38. Eighty percent or more of Cintas' managers attain their positions through the
6 Management Training Program. Cintas recruits for participants in this program on college campuses
7 and among recent college graduates. Each Cintas facility in the Rental Division aims to hire two
8 management trainees each year.

9 39. Management trainees in the Management Training Program are first rotated through
10 management positions in the sales, service, and production departments for eight month periods before
11 moving into a permanent management position in the Company.

12 40. Cintas has a different training program for more experienced applicants who are hired
13 into management positions. These employees are not part of the Management Training Program, but
14 instead participate in a more focused 45-day training program specific to the facility and management
15 position they have been hired to fill.

16 41. Cintas does not post supervisory and managerial positions available in its Rental
17 Division. When Cintas fills open positions from its pool of current employees, it typically uses a "tap
18 on the shoulder" method under which the predominantly white male managers make subjective and
19 biased decisions to fill supervisory and managerial positions with non-African American employees.
20 Consequently, open supervisory and managerial positions are unknown to African American
21 employees, and they are not given an opportunity to apply and compete equally for these positions.

22 42. Cintas' upper level management, with the exception of a few white women, is
23 comprised almost exclusively of white men. The homogenous racial composition of Cintas'
24 management at the highest levels is reflected in management throughout the Company. Cintas'
25 management is virtually all white, and in many areas (including the positions of facility General
26 Managers, Service Managers, and higher level corporate management) virtually all male as well.

27
28

1 CLASS ACTION ALLEGATIONS

2 43. Plaintiffs bring their claims under Section 1981 pursuant to Rule 23(b)(2) and 23(b)(3)
3 of the Federal Rules of Civil Procedure, on behalf of themselves and all others similarly situated, as
4 more specifically described below.

5 44. Plaintiffs seek to represent a class consisting of:

6 a. African American employees and former employees of Cintas' Rental Division
7 who have been denied promotions to management positions during the limitations period;

8 b. African American applicants who have been denied hire into management
9 positions in Cintas' Rental Division during the limitations period; and

10 c. African American managers and former managers of Cintas' Rental Division
11 who have been denied equal compensation during the limitations period.

12 45. Plaintiffs seek to represent a subclass consisting of:

13 a. African American employees and former employees of Cintas' Rental Division
14 in California who have been denied promotions to management positions during the limitations period;

15 b. African American applicants who reside(d) in California and/or applied for
16 employment with Cintas' Rental Division in California, who have been denied hire into management
17 positions during the limitations period; and

18 c. African American managers and former managers of Cintas' Rental Division in
19 California who have been denied equal compensation during the limitations period.

20 46. The named plaintiffs as class and subclass representatives, and the class and subclass
21 defined above, meet each of the requirements of Rule 23(a), 23(b)(2), and 23(b)(3) of the Federal
22 Rules of Civil Procedure for certification of this case as a class action, for the reasons stated below.

23 47. Rule 23(a)(1) - Numerosity. The exact number of members of the class and subclass is
24 not known at present, and will be determined through discovery. It is estimated that there are hundreds
25 of African American employees, former employees, and applicants who are class and subclass
26 members. In addition, the class members are spread throughout the regions and states of the country,
27 and are located in dozens of separate facilities and communities. The class and subclass is therefore so
28 numerous and so situated that individual joinder of class members is impracticable.

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

4 a. Whether African American employees and former employees were denied
5 promotions to management positions in Cintas' Rental Division on account of their race during the
6 limitations period;

7 b. Whether African American applicants were denied hiring opportunities to fill
8 management positions in Cintas' Rental Division on account of their race during the limitations period;

9 c. Whether African American applicants were denied the opportunity to participate
10 in Cintas' Management Training Program because of their race;

11 d. Whether Cintas has given decision-making authority in the recruitment, training,
12 hiring, promoting, and compensation of management positions in Cintas' Rental Division to managers
13 who exercise uncontrolled, unsupervised discretion that provides a ready means for discrimination, and
14 whether that authority is used to discriminate in decision-making;

15 e. Whether there is a pattern or class-wide practice of intentional discrimination on
16 the basis of race against African Americans in the hiring and promotion practices for management
17 positions in Cintas' Rental Division;

18 f. Whether there is a pattern or class-wide practice of intentional discrimination on
19 the basis of race against African Americans in recruitment and selection for Cintas' Management
20 Training Program;

21 g. Whether the promotion, selection, and/or recruitment system(s) for management
22 positions in Cintas' Rental Division and its Management Training Program have an adverse impact on
23 African Americans;

24 h. Whether African American managers and former managers in Cintas' Rental
25 Division have been denied equal compensation on account of their race during the limitations period;

26 i. Whether Cintas' above-described discriminatory actions are "intentional" within
27 the meaning of authorities applying Section 1981;

1 j. Whether Cintas' above-described discriminatory actions constitute unfair,
2 unlawful, or fraudulent business practices in violation of the UCL;

3 k. The appropriate standards for grant of injunctive relief, both equitable and
4 monetary, to remedy Cintas' above-described discriminatory employment practices;

5 l. Whether, as a result of Cintas' above-described discriminatory practices, the
6 plaintiffs and the class and subclass suffered lost wages and other lost compensation; and

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

11 49. Rule 23(a)(3) -- Typicality. The claims of the named plaintiffs, who are representatives
12 of the class and subclass, are typical of the claims of the class and subclass. The named plaintiffs have
13 been personally affected and discriminated against by the same practices that they allege in this
14 complaint have harmed the class and subclass as a whole and other class and subclass members
15 individually.

16 50. Rule 23(a)(4) -- Adequacy. The named plaintiffs will fairly and adequately represent
17 the interests of the class and subclass. There is no conflict between the named plaintiffs and other
18 members of the class and subclass with respect to this action or the claims for relief set forth in this
19 complaint. The attorneys for the plaintiffs are experienced and competent in representation of classes
20 in employment discrimination actions, and they have and will devote adequate staff and other
21 resources to the case.

22 51. Rule 23(b)(2) -- Case Maintainable Under this Rule. This action is properly maintained
23 as a class action pursuant to subsection (b)(2) of Rule 23 in that defendant Cintas has acted or refused
24 to act on grounds which are generally applicable to the class, in particular race, thereby making
25 appropriate injunctive relief and corresponding declaratory relief with respect to the class as a whole.

26 52. Rule 23(b)(3) -- Case Maintainable Under this Rule. This action is also properly
27 maintained as a class action pursuant to subsection (b)(3) of Rule 23, particularly with respect to the
28 claims of class members for damages. With respect to those claims, questions of law and fact common

1 to the members of the class and subclass predominate over questions affecting only individual class
2 and subclass members; and a class action is superior to other available methods for the fair and
3 efficient adjudication of the controversy. Individual class and subclass members have minimal interest
4 in individually maintaining or controlling separate actions in this case; no other litigation has been
5 commenced asserting the interests and claims advanced in this case; interests of fairness, efficiency,
6 and consistency of outcome will be served by concentrating the litigation of the class and subclass
7 members' claims in this particular forum and action; this case will be manageable as a class action, and
8 far more easily manageable than the multiplicity of individual actions in different jurisdictions that
9 would result if this case is not permitted to proceed as a class action.

10 **FIRST CAUSE OF ACTION -- VIOLATION OF 42 U.S.C. §1981**
11 **(ON BEHALF OF PLAINTIFFS AND ALL CLASS MEMBERS)**

12 53. Plaintiffs repeat and reallege, and incorporate by this reference, the allegations set forth
13 in paragraph 1 through 52, inclusive, as though fully set forth herein.

14 54. Defendant's discrimination against Larry Houston, Clifton E. Cooper, and the members
15 of the class is in violation of the rights of plaintiffs and the class afforded them by the Civil Rights Act
16 of 1866, 42 U.S.C. § 1981, as amended by the Civil Rights Act of 1991 (hereafter "Section 1981").

17 55. By the conduct described above, defendant Cintas intentionally deprived the plaintiffs
18 and class members of the same rights as are enjoyed by white citizens to the creation, performance,
19 enjoyment, and all benefits and privileges, of their contractual employment relationship with Cintas, in
20 violation of Section 1981.

21 56. As a result of defendant Cintas' discrimination in violation of Section 1981, the
22 plaintiffs and class members have been denied employment opportunities providing substantial
23 compensation and benefits, thereby entitling them to injunctive and equitable monetary relief.

24 57. In its discriminatory actions as alleged above, Cintas has acted with malice or reckless
25 indifference to the rights of the plaintiffs and class members, thereby entitling them to an award of
26 punitive damages.

27 58. To remedy the violations of the rights of the plaintiffs and the class secured by Section
28 1981, plaintiffs request that the Court award them the relief prayed for below.

1 **SECOND CAUSE OF ACTION – VIOLATION OF CALIFORNIA**
2 **BUSINESS AND PROFESSIONS CODE/UNFAIR COMPETITION LAW**
3 **(ON BEHALF OF PLAINTIFFS AND SUBCLASS MEMBERS**
 WHO RESIDE(D), WORK(ED), OR APPLIED
 FOR EMPLOYMENT IN CALIFORNIA)

4 59. Plaintiffs repeat and re-allege, and incorporate by this reference, the allegations of
5 paragraphs 1 through 58, inclusive, as set forth above

6 60. The UCL, California Business and Professions Code §§17200 *et seq.*, prohibits “unfair
7 competition.” Under the UCL, “unfair competition” is defined as “any unlawful, unfair or fraudulent
8 business act or practice” Violations of other statutes, including §1981, Title VII of the Civil
9 Rights Act of 1964, 42 U.S.C. §§2000e *et seq.*, as amended by the Civil Rights Act of 1991 (“Title
10 VII”), and California Government Code §§12940 *et seq.* (“FEHA”), as alleged herein, which constitute
11 unfair, unlawful, or fraudulent business practices, also violate the UCL and give rise to a claim for
12 relief as specified in Business & Professions Code §17203.

13 61. Plaintiffs Larry Houston and Clifton E. Cooper were residents of California and were
14 employed by defendant Cintas in California in its Rental Division within the period actionable under
15 the UCL.

16 62. Plaintiffs Larry Houston and Clifton E. Cooper bring this case as a representative action
17 on behalf of themselves and African Americans who reside(d) in California, and/or work(ed) in Cintas’
18 Rental Division in California, and/or who applied for management positions in Cintas’ Rental Division
19 in California, and on behalf of the general public, pursuant to §17204 of the California Business and
20 Professions Code. Under this Cause of Action, plaintiffs seeks relief under the UCL only for those
21 members of the subclass who reside(d) in California and/or work(ed) in Cintas’ Rental Division in
22 California, and/or applied for employment in Cintas’ Rental Division in California.

23 63. Defendant’s discrimination against the plaintiffs and all members of the subclass is in
24 violation of the rights secured to plaintiffs and the subclass by Section 1981 and Title VII of the Civil
25 Rights Act of 1964, 42 U.S.C. §§2000e *et seq.*, as amended by the Civil Rights Act of 1991.

26 64. By the conduct described above, defendant intentionally violated the rights of plaintiffs
27 and members of the subclass under Section 1981 and Title VII.

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

4 66. Defendant's discrimination against the plaintiffs and members of the subclass who
5 reside(d) in California, and/or work(ed) for Cintas' Rental Division in California, and/or applied for
6 employment in Cintas' Rental Division in California, is in violation of the rights secured to plaintiffs
7 and members of the subclass by FEHA, California Government Code §§12940 et seq.

8 67. By the conduct described above, defendant intentionally violated the rights of plaintiffs
9 and members of the subclass under FEHA.

10 68. Defendant's conduct also has had an adverse impact on plaintiffs and members of the
11 subclass, and is neither job-related nor consistent with business necessity, and therefore violates the
12 rights of plaintiffs and these members of the subclass under FEHA.

13 69. Defendant's discrimination against plaintiffs and members of the subclass they seek to
14 represent constitutes unfair, unlawful and fraudulent business practices that violate the UCL.

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

21 **THIRD CAUSE OF ACTION -- VIOLATION OF 42 U.S.C. §1981**
22 **(ON BEHALF OF PLAINTIFFS INDIVIDUALLY)**

23 71. Plaintiffs repeat and reallege, and incorporate by this reference, the allegations of
24 paragraphs 1 through 70, inclusive, as set forth above.

25 72. Defendant's failure to promote Larry Houston to a management position at the end of
26 his ninety-day training period violated his rights under the Civil Rights Act of 1866, 42 U.S.C. § 1981,
27 as amended by the Civil Rights Act of 1991.
28

1 80. That the Court certify a subclass defined as:

2 a. African American employees and former employees of Cintas' Rental Division
3 in California who have been denied promotions to management positions in Cintas during the
4 limitations period;

5 b. African American applicants who reside(d) in California and/or applied for
6 employment with Cintas' Rental Division in California, who have been denied hire into management
7 positions during the limitations period; and

8 c. African American managers and former managers of Cintas' Rental Division in
9 California who have been denied equal compensation during the limitations period.

10 81. That the Court certify the named plaintiffs and their attorneys as representatives of this
11 class, pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

12 82. That the Court issue a declaratory judgment against defendant Cintas finding that
13 Cintas' has violated the rights of plaintiffs and the class and subclass under Section 1981, by denying
14 and depriving plaintiffs and the class and subclass of equal employment opportunities in its Rental
15 Division on the basis of race, as alleged in this complaint; and that the violations of Section 1981 rights
16 as specified above constitute unfair, unlawful and/or fraudulent business practices in violation of the
17 UCL.

18 83. That the Court issue a preliminary and permanent injunction pursuant to § 1981 and the
19 UCL, enjoining defendant Cintas, its officers, agents, employees, and all others acting for or
20 succeeding Cintas, from engaging in the discriminatory employment practices alleged in this
21 complaint, which discriminate against plaintiffs, the class, or the subclass in violation of Section 1981
22 and the UCL on the basis of race.

23 84. That the Court enter a preliminary and permanent injunction ordering and requiring that
24 defendant Cintas formulate, institute, adopt and maintain policies and practices which will provide
25 equal employment opportunities to plaintiffs and the class and subclass, and future African American
26 employees and applicants for employment in management positions in Cintas' Rental Division, and
27 which will to the extent practicable remedy the continuing effects of past discrimination against
28

1 plaintiffs and the class and subclass, and restore them to the employment status and management
2 positions they would have held and enjoyed but for the unlawful discrimination complained of herein.

3 85. That the Court award monetary relief as follows:

4 a. On the First Cause of Action, order defendant to pay equitable monetary relief
5 and punitive damages to plaintiffs and members of the class on whose behalf claims are asserted under
6 Section 1981 in that Cause of Action, in an amount to be proved at trial;

7 b. On the Second Cause of Action, order defendant to make restitution to the
8 plaintiffs and members of the subclass who reside(d) in California, and/or work(ed) in Cintas' Rental
9 Division in California, and/or applied for employment in Cintas' Rental Division in California and
10 who were adversely treated and/or affected by Cintas' discriminatory practices, and who were deprived
11 of wages, compensation, fringe benefits, or other monetary benefits as a result of Cintas' violations of
12 law for which the UCL provides such remedies; and to disgorge profits or ill-gotten gains obtained by
13 Cintas from its practices which violate §1981, as alleged herein, in an amount to be proved at trial; and

14 c. On the Third Cause of Action, order defendant to pay equitable monetary relief
15 and punitive damages to Larry Houston and Clifton E. Cooper for their individual claims of
16 constructive discharge in violation of Section 1981, as asserted in that Cause of Action, in an amount
17 to be proved at trial.

18 86. That the Court award them the costs, expenses and attorneys' fees, payable by
19 defendant Cintas, as follows:

20 a. By determining that plaintiffs are the prevailing parties on the First Cause of
21 Action, and thereupon awarding plaintiffs their reasonable costs, expenses, and attorneys' fees incurred
22 in bringing this action, pursuant to 42 U.S.C. §1988;

23 b. By awarding plaintiffs their reasonable costs, expenses, and attorneys' fees on
24 the Second Cause of Action based on the creation of a common fund to the benefit of the subclass, and
25 pursuant to California Civil Code §1021.5 for the benefits, including monetary relief, obtained on
26 behalf of plaintiffs and members of the subclass who reside(d) and/or work(ed) in Cintas' Rental
27 Division in California and/or applied for employment in Cintas' Rental Division in California, and the
28

1 general public of California, and for serving as “private attorneys general” in acting to enforce the
2 public policy, interest and law of the State of California; and

3 c. By determining that Mr. Houston and Mr. Cooper are prevailing parties on the
4 Third Cause of Action, and thereupon awarding them their reasonable costs, expenses, and attorneys’
5 fees incurred in bringing this action, pursuant to 42 U.S.C. §1988.

6 87. That the Court order Cintas to pay pre- and post-judgment interest in all monetary
7 amounts awarded in this action, as provided by law

8 88. That the Court retain jurisdiction of this case for a sufficient period of time to assure
9 that defendant Cintas has fully complied with the preliminary and permanent injunctions requested
10 herein and has remedied to the greatest extent practicable the discriminatory policies and practices
11 complained of herein, and that Cintas is operating in full compliance with the requirements of §1981
12 and the UCL with regard to its employment policies and practices.

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 89. That the Court award such other and further relief as this Court deems equitable and
2 just.

3 Dated: August 3, 2005

Respectfully submitted,

4 GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
5 DARDARIAN

6 

7 Morris J. Baller, #048928

8 Roberta L. Steele, #188198

9 Nina Rabin, #229403

GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
DARDARIAN

10 300 Lakeside Drive, Suite 1000

11 Oakland, CA 94612

(510) 763-9800

(510) 835-1417 (fax)

12 Paul Strauss, #153937

13 Robert S. Libman, #139283

14 MINER, BARNHILL & GALLAND

15 14 W. Erie Street

Chicago, IL 60610

(312) 751-1170 (telephone)

(312) 751-0438 (telefax)

17 ATTORNEYS FOR PLAINTIFFS

ORIGINAL
FILED

AUG -5 PM 2:59

FRANCIS HENRIC
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Morris J. Baller, #048928
2 Roberta L. Steele, #188198
3 Nina Rabin, #229403
4 GOLDSTEIN, DEMCHAK, BALLER,
5 BORGEN & DARDARIAN
6 300 Lakeside Dr., Suite 1000
7 Oakland, CA 94612
8 (510) 763-9800 (telephone)
9 (510) 835-1417 (telefax)

10 Paul Strauss, #153937
11 Robert S. Libman, #139283
12 Nancy Maldonado
13 MINER, BARNHILL & GALLAND
14 14 W. Erie Street
15 Chicago, IL 60610
16 (312) 751-1170 (telephone)
17 (312) 751-0438 (telefax)

18 Attorneys for Plaintiffs

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

21 LARRY HOUSTON and CLIFTON E. COOPER,)
22 on behalf of themselves and all others similarly)
23 situated,)

24 Plaintiffs,

25 vs.

26 CINTAS CORPORATION,

27 Defendant.

28 Case No. C05-03145 JCS
CLASS ACTION
DEMAND FOR JURY TRIAL
Complaint filed August 3, 2005

DEMAND FOR JURY TRIAL

Plaintiffs Larry Houston and Clifton E. Cooper, on behalf of themselves and the class and subclass, demand a trial by jury on all claims stated in their complaint to which they are entitled to a jury trial.

Dated: August 5, 2005

Respectfully submitted,

GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
DARDARIAN



Morris J. Baller, #048928

Roberta L. Steele, #188198

Nina Rabin, #229403

GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
DARDARIAN

300 Lakeside Drive, Suite 1000

Oakland, CA 94612

(510) 763-9800

(510) 835-1417 (fax)

Paul Strauss, #153937

Robert S. Libman, #139283

Nancy Maldonado

MINER, BARNHILL & GALLAND

14 W. Erie Street

Chicago, IL 60610

(312) 751-1170 (telephone)

(312) 751-0438 (telefax)

ATTORNEYS FOR PLAINTIFFS