

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

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**Motisola Malikha ABDALLAH,
Gregory Allen CLARK, Linda
INGRAM,
and Kimberly Gray ORTON**

**Individually and as
Class Representatives,
Plaintiffs,**

Civil Action No. 1-98-CV-3679 (RWS)

Complaint - Class Action

v.

**THE COCA-COLA COMPANY,
Defendant.**

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AMENDED COMPLAINT

[I. NATURE OF THE CLAIM](#)

[II. JURISDICTION](#)

[III. THE PARTIES](#)

A. The Plaintiffs

B. The Defendant

[IV. CLASS ACTION ALLEGATIONS](#)

[V. ALLEGATIONS OF CLASSWIDE DISCRIMINATION](#)

[A. Discrimination In Terms and Conditions of Employment](#)

[B. Discrimination in The Performance Evaluation System](#)

1. The Performance Evaluation System At Coca-Cola

2. Racial Disparities in Performance Evaluations

3. This Discriminatory System Penalizes the Named Plaintiffs

C. Discrimination in Compensation

- 1. Racial Disparities in Compensation**
- 2. The Job Grade System Allows Significant Pay Disparities**
- 3. This Discriminatory System Penalizes the Named Plaintiffs**

D. Discrimination in Promotions

- 1. "Glass Ceiling" and "Glass Walls"**
- 2. Job Posting and Targeted Selection Are Not Objective**
- 3. Coca-Cola Uses Closed Procedures to Fill Positions**
- 4. This Discriminatory System Penalizes the Named Plaintiffs**

E. Defendant's Failure to Prevent and Remedy Discrimination

VI. ALLEGATIONS OF THE INDIVIDUAL NAMED PLAINTIFFS

A. Motisola Malikha Abdallah's Individual Claims

B. Gregory Allen Clark's Individual Claims

C. Linda Ingram's Individual Claims

D. Kimberly Gray Orton's Individual Claims

COUNT ONE: DISCRIMINATION AGAINST THE NAMED PLAINTIFFS AND THE CLASS IN VIOLATION OF SECTION 1981

COUNT TWO: INTENTIONAL DISCRIMINATION AGAINST PLAINTIFF CLARK IN VIOLATION OF TITLE VII

COUNT THREE: RACIALLY DISPARATE IMPACT IN VIOLATION OF TITLE VII

PRAYER FOR RELIEF

JURY DEMAND

I. NATURE OF THE CLAIM

1. Comes now Plaintiff Gregory Allen Clark, the original Plaintiff in the above styled action, and files this Amended Complaint and shows the Court as follows:

2. This is a class action, brought by Plaintiffs Motisola Malikha Abdallah, Gregory Allen Clark, Linda Ingram, and Kimberly Gray Orton (collectively, "the named Plaintiffs"), on behalf of themselves and other similarly situated individuals against the Coca-Cola Company ("Coca-Cola," "the Company," or "Defendant"). Plaintiffs seek declaratory, injunctive and other equitable relief, and compensatory and punitive damages, based on Defendant's continuing deprivation of rights accorded to the named Plaintiffs and members of a class of African-American salaried employees (as defined herein in paragraph 20) under Section 1981 of the Civil Rights Act of 1871, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 1981 ("Section 1981"). Additionally, Plaintiff Clark seeks declaratory, injunctive and other equitable relief, and compensatory and

punitive damages based on Defendant's discrimination against him in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e *et seq.* ("Title VII").

3. As evidence of Defendant's pattern and practice of race discrimination, Plaintiffs allege the following specific examples of disparate treatment:

a. *Discrimination in Evaluations:* The performance evaluation system is implemented by managers exercising undue authority to make biased and inconsistent determinations with little or no oversight. This system permits discrimination on the basis of race in evaluations, where raises, bonuses and stock options, as well as further advancement within the Company, are based on evaluation scores, pursuant to Coca-Cola's written policies on compensation. Because of the undue discretion of managers, African-Americans receive more low evaluation scores than Caucasians and fewer high scores. There is no factor (such as job grade, experience, or similar factors) that could explain this race-based difference in scores. (Exhibit A.)

3. *Discrimination in Compensation:* A review of salaries paid by Coca-Cola to African-Americans compared with salaries paid to Caucasian employees reveals dramatic differences in pay in Coca-Cola's corporate headquarters. Upon information and belief, this pattern exists throughout the Company. For example, in 1995 in the corporate headquarters, the average African-American was paid over \$19,000 less than the average Caucasian employee. In 1998 in the corporate headquarters, the average African-American was paid almost \$27,000 less than the average Caucasian employee.

Year	African-American Mean Salary	Caucasian Mean Salary
1995	\$41,904	\$61,115
1998	\$45,215	\$72,045

4. *Discrimination in Promotions.* Coca-Cola's policies are not applied uniformly or fairly. The Company's written and unwritten policies and practices regarding promotions do not require posting of all positions, but allow "management nomination," which amounts to little more than word of mouth recommendations, and other closed procedures, including the use of a high-potential list. Even positions that are posted on the computerized job posting system may contain a notation that an internal candidate has already been identified. Jobs are filled without being posted, candidates are handpicked in advance, and supervisors who make hiring decisions disregard the results of panel interviews and manipulate scores in order to ensure that their favorites are chosen. As a result of this kind of discrimination, African-Americans are denied the opportunity to advance to the same level and at the same rate as equally qualified Caucasian employees.

d. *"Glass Ceiling."* At Coca Cola, African-American employees experience a "glass ceiling" or a barrier to equal opportunity advancement. Few African-Americans advance to senior levels in the Company, especially when compared to the significant representation of African-Americans among salaried employees. Indeed, although African-Americans make up about 15.7 percent of the employees in the corporate headquarters, they are under-represented at higher pay grades. In 1998, only 7.8 percent of the over 500 employees at pay grade 11 - corresponding to a manager position -- and only 4.4 percent of the more than 100 employees at pay grade 14 - corresponding to a high-level Director position - were African-American. Only 1.5 percent of pay

grade 15 employees were African-American. (Exhibit B.)

e. "*Glass Walls.*" Not only do barriers exist for African-American employees seeking upward advancement within the Company, but similar barriers virtually segregate the Company into divisions where African-American leadership is acceptable, and divisions where it is not. African-Americans in senior positions are concentrated in less powerful and non-revenue-generating areas. The Human Resources Division and the External Affairs Department (a community relations office in the Corporate Affairs Division) account for over half of the African-American senior management officials in the corporate headquarters, while high-level positions of significant influence in divisions such as Global Marketing, Finance, Information Systems and Technical Operations (purchasing and production-related activities) have virtually all Caucasian employees. (Exhibit B.) Only about five percent of high-level positions are held by African-American employees, but when Human Resources and Corporate Affairs are excluded from the calculation, that figure drops to 2.9%. *Id.*

f. *Terminations.* African-American employees at Coca-Cola are involuntarily terminated at a much higher rate than Caucasian employees. In 1997, there were 62 involuntary terminations in the corporate headquarters, and African-American employees accounted for about 37% of those, or 23 persons. This is more than double the representation of African-American employees among employees in the corporate headquarters, which is just under 16%. Caucasians, who make up over 77% of the employees in the Corporate office, accounted for under 50% of the terminations in 1997. Similar trends hold true for 1998 as well.

4. This discrimination represents a company-wide pattern and practice, rather than a series of isolated incidents. Defendant's written and unwritten policies and practices regarding evaluation, compensation and promotion subject the named Plaintiffs and the Class to ongoing disparate treatment. Coca-Cola's actions constitute a continuing violation of the rights of the named Plaintiffs and the Class, and have been ongoing since April 22, 1995, and prior to that date.

5. Although Coca-Cola has carefully cultivated African-Americans as consumers of its product by public pronouncements, strategic alliances, and specific marketing strategies, it has failed to place the same importance on its African-American employees. Further, Defendant's efforts to target African-American consumers reflects stereotypical views of African-Americans who all live in the ghetto or perform low-skill or low pay jobs. Coca-Cola's marketing staff have also discriminated against African-American marketing employees and advertising agencies. Defendant's outreach to consumers does nothing to address the racial disparities in compensation, promotions and evaluations that exist inside the Company.

II. JURISDICTION

6. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(4), which confers original jurisdiction upon this Court in a civil action to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, and pursuant to 28 U.S.C. § 1331, which confers original jurisdiction upon this Court in a civil action arising under the Constitution or laws of the United States. 7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and § 1391(c), because Defendant has its headquarters, can be found and conducts business in the Northern District of Georgia, and because the cause of action has arisen and occurred in the Northern District of Georgia.

III. THE PARTIES

A. The Plaintiffs

8. Plaintiff Motisola Malikha Abdallah is an African-American adult citizen who resides in Atlanta, Georgia.

She is a current employee of Coca-Cola, where she has worked for over three years as a grade 5 administrative assistant. She alleges, *inter alia*, that in her current virtually all-white department, she has experienced discrimination in performance evaluations and in the terms and conditions of her employment, and she has not been promoted, although the Caucasian employee who held her job previously was promoted to pay grade 9.

9. Plaintiff Gregory Allen Clark is an African-American adult citizen who resides in Morrow, Georgia. He is a current employee of Coca-Cola, where he has worked for over two years as a Security Officer. Clark has eight years of experience in Security, and he has a Bachelor of Science degree in Criminal Justice from the University of South Carolina (1989) and a Master of Science in Service Management from Mercer University (1997). Clark alleges, *inter alia*, that he has been denied promotions on the basis of race, and has been repeatedly denied the opportunity to even apply for promotions, because of the common practice of filling supervisory jobs without posting the positions.

10. Plaintiff Linda Ingram is an African-American adult citizen who resides in Austell, Georgia. She is a current employee of Coca-Cola, where she has worked for almost nine years. Ingram holds a degree in Business Administration from North Carolina Central University (1979) and prior to joining Coca-Cola, she worked for AT&T and RJR Nabisco. Ingram alleges, *inter alia*, that in her current position as an Information Systems Analyst, Ingram has been consistently paid below her grade level and thousands of dollars less than comparable Caucasian employees.

11. Plaintiff Kimberly Gray Orton is an African-American adult citizen who resides in Atlanta, Georgia. She is a former employee of Coca-Cola, where she worked for about thirteen years, rising from an entry-level trainee job to a Director-level grade 13 position. Orton has a Bachelor of Science degree from Colorado State University (1982) and sixteen years of experience in sales and marketing. Orton alleges, *inter alia*, that she was significantly underpaid compared with comparable Caucasian employees, was compensated at the low end of her pay grade range, and supervised Caucasian employees who were paid more than she was.

B. The Defendant

12. Defendant Coca-Cola is a Delaware corporation and maintains its corporate headquarters in Atlanta, Georgia. Coca-Cola employs approximately 29,000 employees worldwide, including affiliates and subsidiaries. The vast majority of Defendant's United States-based salaried employees work in Atlanta. The Coca-Cola Company is made up of four corporate components -- the North America Group, Coca-Cola Corporate, Coca-Cola International and the Minute Maid Company ("Minute Maid"). (Organizational chart attached as Exhibit C.) Unless stated otherwise, Defendant Coca-Cola includes all entities within the Coca-Cola Company, including the North America Group, Coca-Cola Corporate, Coca-Cola International, and Minute Maid, and all wholly-owned subsidiaries.

13. Coca-Cola's corporate headquarters ("Coca-Cola Corporate" or "the Corporate Office") oversees and supports the Company's global operations as executed by the North America Group, Coca-Cola International, and Minute Maid, including disseminating and enforcing common employment and human resources policies and practices with respect to evaluation, compensation, and promotions. Coca-Cola employs approximately 5,000 employees in the Corporate Office.

14. The North America Group includes Coca-Cola USA ("CCUSA") and Coca-Cola Canada. CCUSA is subdivided into Operations ("USA Operations"), which markets Coca-Cola products in bottles and cans, and Fountain ("USA Fountain"), which markets Coca-Cola products for fountain or "tap" dispensaries. The headquarters of CCUSA are co-located with Coca-Cola's corporate headquarters, including most of the employees of Coca-Cola Corporate, in Atlanta, Georgia. CCUSA follows Coca-Cola's common employment practices and procedures of Coca-Cola, including use of the same pay grade system, compensation system, job posting system, and evaluation procedures used by other Coca-Cola entities.

15. Coca-Cola International is composed of the Africa Group, the Latin America Group, the Greater Europe Group, and the Mid and Far East Group. Each group is further subdivided into Divisions, such as the Northern African and Southern African Divisions of the Africa Group. Coca-Cola International includes both U.S.-based salaried employees and salaried employees based abroad. Employees are commonly rotated from Atlanta to international assignments and then back to the United States. Upon information and belief, hiring and management practices for salaried employees of Coca-Cola International are subject to the central control of the Coca-Cola Company through policies and practices disseminated by the Corporate Office, including use of the same pay grade system, compensation system, job posting system, and evaluation procedures, as those used by other Coca-Cola entities.

16. Minute Maid, formerly known as the Coca-Cola Foods Company, is based in Houston, Texas and produces and markets juices and juice drinks. Employees routinely transfer between the Houston offices of Minute Maid and the Atlanta offices of Coca-Cola. Upon information and belief, Minute Maid follows Coca-Cola's common employment practices and procedures, including use of the same pay grade system, compensation system, job posting system, and evaluation procedures used by other Coca-Cola entities.

17. Coca-Cola engages in interstate and foreign commerce by distributing and marketing soft drinks and noncarbonated beverages, including Coca-Cola Classic, Diet Coke, Sprite, Fanta, Barq's Root Beer, Nestea, Powerade, Frutopia, and Minute Maid orange juice. According to the Company's 1998 annual report and the current Company website, Coca-Cola is the "global soft drink industry leader," operating in almost 200 countries. Coca-Cola has 44 percent of sales of soft drinks in the U.S. and four of the top five best selling soft drink brands in the world.

IV. CLASS ACTION ALLEGATIONS

18. Paragraphs 1 through 17 above are incorporated herein by reference.

19. The named Plaintiffs bring this action on their own behalf, and on behalf of a class of persons under Rule 23(a) and 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure.

20. The named Plaintiffs seek to represent a class of:

all African-American persons employed by Defendant Coca-Cola in salaried positions in the United States at any time from April 22, 1995, to the present, who are subject to Coca-Cola's employment and human resources policies and practices, including, but not limited to, current or former salaried employees of the Corporate Office, CCUSA, Minute Maid, and Coca-Cola International, and who have been, continue to be, or may in the future be, adversely affected by Coca-Cola's racially discriminatory employment policies and practices ("the Class").

Plaintiffs reserve the right to amend the definition of the Class following discovery.

21. The individuals in the Class are so numerous that joinder of all members is impracticable. Plaintiffs estimate that there are at least 1500 members of the Class.

22. There are questions of law and fact common to the Class that predominate over any questions affecting only individuals. Among these common questions are:

- a. Whether Coca-Cola's actions violated federal civil rights laws, in particular 42 U.S.C. § 1981;
- b. Whether Coca-Cola maintains written and unwritten policies and/or practices for performing evaluations that discriminate against the Class on the basis of race;

c. Whether there are statistically significant disparities between the evaluation scores of African-American employees and the evaluation scores of Caucasian employees, sufficient to permit an inference of intentional discrimination;

d. Whether Coca-Cola maintains written and unwritten policies and/or

practices for determining compensation that discriminate against the Class on the basis of race;

e. Whether there are statistically significant disparities between the compensation awarded to African-American employees and the compensation awarded to similarly situated Caucasian employees, sufficient to permit an inference of intentional discrimination;

f. Whether Coca-Cola maintains a practice of filling positions without following its written policies on posting for positions;

g. Whether Coca-Cola maintains written and unwritten policies and/or practices for determining promotions that discriminate against the Class on the basis of race;

h. Whether there are statistically significant disparities between the promotions awarded to African-American employees and the promotions awarded to similarly-situated Caucasian employees, sufficient to permit an inference of intentional discrimination;

i. If discrimination is found, whether injunctive relief, including changes to Company-wide written and unwritten policies and practices, is needed to adequately remedy past and present discrimination against the Class and prevent future discrimination against the Class;

j. Whether Coca-Cola's conduct constitutes a pattern and practice of discrimination against the Class justifying an award of lost wages, benefits or other similar relief to individual members of the Class;

k. Whether Coca-Cola's conduct constitutes a pattern and practice of discrimination against the Class justifying an award of compensatory and punitive damages to individual members of the Class;

23. The claims of the representative parties are typical of the claims of the class. Plaintiffs Ingram and Orton allege, *inter alia*, discrimination in compensation; Plaintiffs Abdallah and Clark allege, *inter alia*, discrimination in promotions; Plaintiff Abdallah alleges, *inter alia*, discrimination in evaluations.

24. The named Plaintiffs will fairly and adequately represent the interests of the Class. The named Plaintiffs have retained skilled and experienced counsel to represent them in class litigation.

25. Coca-Cola has acted or refused to act on grounds generally applicable to the Class, as described in paragraphs 28 through 84, below, making final injunctive or declaratory relief appropriate.

26. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

27. Issues common to the Class, as noted in paragraph 22, above, predominate over individual issues.

V. ALLEGATIONS OF CLASSWIDE DISCRIMINATION

28. Paragraphs 1 through 27 are incorporated herein by reference.

29. Defendant Coca-Cola has engaged in a continuing pattern and practice of racial discrimination against African-American salaried employees since at least April 22, 1995, and prior to that date. Coca-Cola discriminates against African-American employees by (1) maintaining written and unwritten policies and practices for performing evaluations of employees that allow biased and inconsistent determinations to the detriment of African-Americans employees; (2) maintaining written and unwritten policies and practices that utilize the inherently unreliable results of the evaluation system to make decisions on compensation, including raises, bonuses and the allocation of stock options, and to make decisions on promotions; (3) maintaining written and unwritten policies and practices for determining compensation that rely on unduly discretionary decisions, resulting in unequal compensation of African-American salaried employees throughout the Company; (4) maintaining written and unwritten policies and practices regarding promotions, transfers and other internal hiring practices that allow supervisors to handpick Caucasian candidates over qualified African-American candidates and to manipulate the interview and hiring process, including using an improperly subjective basis for decisions; (5) erecting an artificial "glass ceiling" and artificial "glass walls" that prevent the advancement of qualified African-American employees and channel them to less influential roles within the Company; (6) denying African-American employees equal training, mentoring, and work assignments, preventing them from advancing within the company, and otherwise discriminating against African-American employees in the terms and conditions of their employment; and (7) failing to monitor and oversee employment and human resources practices and failing to provide adequate training and oversight of supervisors to ensure that Company policies are applied consistently and in a nondiscriminatory manner.

30. Officials at the highest levels of the Company are aware of Coca-Cola's discrimination against African-Americans, yet fail to take adequate measures to prevent or remedy it. Upon information and belief, while the Company's current Chief Executive Officer (CEO), M. Douglas Ivester, was President of CCUSA, he stated that it will be "15 to 20 years" before African-Americans employees will be well-represented at senior levels in the Company, a glass ceiling that, true to his prediction, remains firmly in place today. When a senior-level African-American employee of Coca-Cola moved from Minute Maid to the Company's Atlanta headquarters in 1991, Ivester communicated that the "environment" at the Company "isn't very accepting" and that the African-American employee might hear some racially motivated comments. Ivester went on to say that the Company needed "those people" who might make racist comments.

A. Discrimination In Terms and Conditions of Employment

31. One important factor for successful advancement within Coca-Cola is an individual's compatibility with the employees of the largely independent bottling companies who distribute Coca-Cola products, a factor that significantly disadvantages African-Americans seeking advancement. There is an historic and close relationship between Coca-Cola and its bottlers. Frequently, Coca-Cola employees, especially at senior levels, interface with individuals from the bottling companies. African-Americans, who may be viewed as unacceptable to individuals at the bottling companies who harbor racially discriminatory views, do not advance to senior-level positions at Coca Cola at the same rate as their Caucasian counterparts. As a result, African-Americans do not have the same options for promotion afforded to their white counterparts.

32. For example, in or about 1996 or 1997, one of the few African-American Assistant Vice Presidents attended a meeting in Atlanta with some representatives of the bottling companies. He was the only African-American at the meeting, but high-level Caucasian marketing executives from Coca-Cola were present. The head of marketing of the bottling company for the state of Alabama introduced himself as the "Grand Cyclops" of Alabama. Despite the obvious Ku Klux Klan reference, no Company employee responded to this outrageous comment at the Company meeting. This type of comment highlights the challenges facing African-American employees who are required to work with the bottlers on a regular basis, and who cannot penetrate the glass ceiling or overcome the glass walls because of the connections between these bottling companies and Coca-Cola.

33. Discrimination in employment at Coca-Cola prevents the Company from tapping talent it needs to

properly execute its marketing strategies. African-American consumers are an extremely significant market for Coca-Cola. In 1995, according to the latest figures available, Coca-Cola sold an estimated 183 million cases of Coke Classic and an estimated 110 million cases of Sprite to African-Americans in the United States, approximately 25 percent of the brand's total sales. Coca-Cola's marketing strategies include aggressive targeting of minority consumers for its products, through specific advertising campaigns, public and community relations events, and promotions with *Essence Magazine*, *Soul Train*, and others.

34. Despite Coca Cola's effort to market to African-American consumers, some of Coca-Cola's marketing practices reflect condescending or stereotypical attitudes toward African-Americans. An African-American Coca-Cola Marketing Director witnessed a Caucasian Brand Manager make a presentation about ethnic marketing in April of 1998 at a meeting with Jack Stahl, head of CCUSA, which contained offensive stereotypes. For example, the Caucasian Brand Manager showed a picture of a run-down inner city neighborhood and said words to the effect that "this is where black people live." The same individual commented on a Coca-Cola commercial featuring the African-American musician L.L. Cool J sitting on the steps of a attractive suburban house, stating that he should have been featured sitting in the ghetto. African-American employees who have tried to assist the largely white Brand group in its ethnic marketing strategies, which have been sometimes ill-conceived or inappropriate, often found that their contributions were belittled or ignored.

35. These discriminatory practices extend to Coca-Cola's relationships with ethnic marketing agencies. Upon information and belief, David Weldon, a Caucasian employee who was then the Vice-President of Advertising, told an African-American advertising agency in about 1997, words to the effect that "I don't hire you to do good advertising, I hire you to do black advertising" and "it's not my fault you are black -- it's yours."

B. Discrimination in The Performance Evaluation System

36. Coca-Cola centrally develops and oversees the performance evaluation system. Under this system, performance evaluations are conducted by managers exercising undue discretion with little or no oversight of their determinations. This system permits discrimination on the basis of race in evaluations. Evaluations significantly influence decisions on raises, bonuses and stock options, as well as further advancement within the Company.

1. The Performance Evaluation System At Coca-Cola

37. All salaried employees of Coca-Cola receive annual performance evaluations. An employee's rating on an annual evaluation can have an important effect on that employee's compensation. The predominant evaluation system utilized at Coca-Cola since at least 1994 is based on ratings from a high of CE (Clearly Exceeds), down to ME (Meets and Exceeds), down to MR (Meets Requirements) and a low of MM (Meets Minimum). There is also an FM (Fails to Meet Minimum) rating that is very rarely utilized. Employees may receive a plus or minus rating in addition to the rating they receive, e.g. MR+ or CE-.

38. An employee's raise is determined in large part by the employee's score on a performance evaluation, because a particular score relates to a percentage range of increased compensation. For example, in 1996, according to Coca-Cola salary guidelines for managers, employees who were at the midpoint of their salary range and received a CE rating were eligible for a raise of between 6 and 8 percent, while employees at the midpoint of their salary range who received an MR rating were eligible for a raise of between 2 and 4 percent. Under this system, the actual amount of the raise is determined solely by the supervisor. (Exhibit D.)

39. Despite the discretionary nature of this system, the Company has failed to standardize evaluation and compensation practices or to provide meaningful oversight and review of individual managerial decisions.

40. The criteria used in the performance evaluation system include criteria that permit biased and inconsistent application, like evaluating "work relationships," "communication," or "problem-solving."

41. Although it appears that Coca-Cola has written a policy requiring all managers to be trained to properly conduct performance evaluations including training managers to perform Mid-Year and Annual Performance Reviews, to provide coaching and feedback, and to create Development Plans for the employees they supervise -- in practice, this training is offered only haphazardly. Upon information and belief, training on the compensation system was instituted Company-wide only beginning in 1998, approximately two years after the new compensation system was put into effect.

42. Although an employee's evaluation should undergo multiple levels of review, in practice this is commonly a "rubber stamp" rather than effective oversight.

2. Racial Disparities in Performance Evaluations

43. As a result of the lack of clearly objective criteria, standardized practices or meaningful oversight, African-Americans disproportionately receive lower scores on evaluations. There is no objective factor other than race that can explain this disparity, since performance is not linked to job title or education. As the graph in Exhibit A makes clear, African-Americans in the Company's Corporate office receive fewer high ratings and many more mid-range or lower ratings than Caucasian employees. For example, in 1998 Caucasians outscored African-Americans by 1.4 to 1 in the highest category (Clearly Exceeds) and by 1.2 to 1 in the category of ME (Meets and Exceeds). Almost 54% of African Americans received scores in the MR/MR+ (Meets Requirements) but only about 44% of Caucasians received MR/MR+ scores. (Exhibit A.)

44. In 1995, approximately 59% of African Americans received scores in the MR/MR+/MR- (Meets Requirements) category and about 36% received scores in the next highest category of ME/ME+/ME- (Meets and Exceeds Requirements), while only 4.4% received scores in the top category of CE/CE+/CE- (Clearly Exceeds Requirements). In the same year, about 42% of whites received MR/MR+/MR- ratings, almost 50% received ME/ME+/ME- ratings and 8.5% received CE/CE+/CE- ratings. (Exhibit A.)

45. As a result, under the Company's evaluation system, many more blacks are characterized as lower-level performers and many more whites are stellar performers. These disparities are evidence of the discriminatory criteria being used to evaluate employees. This results in significant financial and career development consequences for African-Americans because of the critical role evaluations play in advancement, and in determining compensation, including raises, bonuses and stock options.

3. This Discriminatory System Penalizes the Named Plaintiffs

46. Motisola Abdallah received a low evaluation in retaliation for making a race discrimination complaint. After Abdallah complained to the Human Resources Division about the treatment she received from her Caucasian managers, she was retaliated against in her 1998 performance evaluation. Although she had always received positive evaluations prior to this incident, the 1998 evaluation, completed by one of the Caucasian managers against whom she had lodged a complaint, rated her as MM - Meets Minimum. Moreover, the portion of the evaluation which sets forth problems in Abdallah's performance was vague and subjective. She is currently under a Performance Improvement Plan. This evaluation does not fairly reflect her performance and will harm her potential for advancement at the Company.

47. Thus, Coca Cola's evaluation system is an inherently unreliable tool that Defendant inappropriately uses to determine compensation and promotions, to the detriment of African-American salaried employees.

C. Discrimination in Compensation

48. Coca-Cola determines compensation of salaried employees, including salaries, raises, bonuses and

stock option awards, employing a variety of factors, including the employee's pay grade, the employee's position within the salary range of that grade, and the employee's score on an annual performance evaluation. However, under this system, managers and supervisors are given ranges and targets corresponding to these factors, leaving the final numerical amounts within their discretion.

49. The Company's current compensation system, in effect since January of 1996, allows particularly excessive managerial discretion and assigns significant weight to its unreliable and discriminatory evaluation system, leading to discrimination on the basis of race.

1. Racial Disparities in Compensation

50. Coca-Cola maintains a pattern and practice of paying African-American employees less than similarly-situated Caucasian employees, including discrimination in salary. This discrimination results in dramatic differences between African-American and Caucasian salaries, as demonstrated by analysis of 1995 and 1998 data regarding employees in the Corporate Office.

51. The 1995 data shows that the median salary for African-Americans, approximately \$34,000, lags far behind the median salary for Caucasians, approximately \$55,000. This nearly \$21,000 gap increases at higher salary levels. By 1998, the salary gap had worsened as the median African-American salary lagged further behind the median Caucasian salary. In 1998, the median salary for African-Americans was about \$36,000, while the median for Caucasians was approximately \$65,000, a differential of approximately \$29,000. (Exhibit E.)

52. The same 1995 data reveal that the longer African-Americans stay at Coca-Cola, the more they are underpaid compared with Caucasian employees. For example, among employees with one year of service at Coca-Cola, the African-American average salary is about \$6,500 less than the Caucasian average salary. Among employees with five years of service, this gap between average salaries rises to over \$12,500. After ten years of service, the difference is almost \$21,000, over \$28,000 after 15 years, almost \$39,000 after 20 years and \$42,000 after 25 years. (Exhibit F.)

2. The Job Grade System Allows Significant Pay Disparities

53. The current compensation system has broad and overlapping salary ranges that allow significant pay disparities among employees at the same job grade. In addition, the written guidelines permit employees at lower job grades to be paid more than employees at higher grades. In the absence of adequate monitoring and oversight, the broad discretion of the current compensation system fuels discriminatory compensation decisions and allows them to stand unchecked.

54. All salaried positions at Coca-Cola are assigned a job grade between 1 and 17; 1 being the lowest job grade and 17 being the highest job grade, except for some specialized extremely high-level positions. Grades 1 through 6 are primarily administrative positions; grades 7 through 10 are primarily professional-level non-supervisory positions; grades 11 and 12 approximately correspond to manager-level supervisory positions; grades 13 and 14 approximately correspond to director-level supervisory positions and grades above 14 are Vice-President level positions and above.

55. The 1996 change in policy regarding job grades created many fewer grades with significantly broader salary ranges for those grades. One of Coca-Cola's stated purposes in implementing this new system, according to Company documents distributed to employees, was to "give managers greater flexibility in making merit increase decisions." The enormous disparities shown in 1995, when a less discretionary system was in place, have been significantly worsened by the current practice, as demonstrated by Exhibit E.

56. The Human Resources Division, through Compensation Specialists, assigns the job grade for each

position at Coca-Cola. Job grade determines the salary range for the position, as well as eligibility for bonuses and stock options. According to Company documents distributed to employees, positions at grade 10 and higher are automatically eligible for bonuses, although a few positions at grades 7, 8 and 9 are specially designated by HR for bonuses. The "incentive targets" for bonuses depend on the job grade, and range from 10 percent for grades 10 and 11, to 35 percent for grade 16. (Exhibit D.) Positions at grade 11 and higher are automatically eligible for stock options, while certain grade 10 positions may also be eligible for options.

57. Job grade, which determines the salary range, is subject to manipulation. Job grades are supposed to be determined by reviewing the job qualifications and requirements and by assigning points that correspond to job grade and compensation. An employee can petition Human Resources to have his or her job grade evaluated and possibly adjusted. The grade is supposed to be adjusted based on the job that is being performed, not to reward a particular individual, but that policy is not always followed. It is not uncommon for individuals with the same or similar job to have a different job grade.

58. The salary ranges for a particular job grade are extremely broad, especially at the higher job grades, permitting disparate compensation of employees with the same job grade. For example, in 1996, the range for grade 6 was between \$25,000 and \$43,000, a difference of \$18,000; for grade 10, salaries ranged from a low of \$43,000 to a high of \$79,000, a difference of \$36,000; and for grade 14, salaries ranged from \$86,000 to \$166,000, a difference of \$80,000. (Exhibit D.) Upon information and belief, similar differentials currently exist at the Company.

59. In addition, job grades can overlap, so a grade 12 manager at the midpoint of the grade 12 range in 1996 would earn \$87,000, considerably more than a grade 13 director at the minimum of the grade 13 range, who would earn only \$71,000 - \$16,000 less than the subordinate grade 12 employee. Upon information and belief, similar differentials currently exist at the Company.

3. This Discriminatory System Penalizes the Named Plaintiffs

60. Named Plaintiff Kimberly Orton was grossly underpaid for her work at Coca-Cola, earning tens of thousands less than Caucasian employees in comparable positions. Throughout her thirteen-year career at Coca-Cola, Orton on multiple occasions failed to reach the midpoint of the salary range for her pay grade. In 1996, salaries for job grade 13 could be anywhere between \$71,000 and \$137,000.

61. Defendant even paid Orton less than Caucasian employees whom she supervised. Thus, Orton had to determine the salary increases for employees who already outpaced her in pay. In 1995, when Orton held a grade 12 position, she was making about \$78,000 and one of the people she was supervising, Dave Williams, a Caucasian grade 11 employee, was making approximately \$ 85,000. In 1996, she made \$80,000 and Elizabeth Barry, a grade 12 Caucasian employee under her supervision, was making \$86,000. Unlike Barry, Orton has a college degree. According to the 1996 salary guidelines, Orton's pay of \$80,000 put her near the bottom of her pay grade.

62. Since assuming her current position in approximately 1995, Plaintiff Ingram has been paid below minimum for her pay grade, and thousands less than Caucasian employees in the same pay grade performing the same job.

63. In summary, Coca-Cola discriminates against African-Americans by allowing supervisors to subjectively determine job grade as well as salary, raises, bonuses and other forms of compensation, as shown by the dramatic differences in pay demonstrated by the 1995 and 1998 data.

D. Discrimination in Promotions

64. The Company's written and unwritten policies and practices allow supervisors to essentially handpick candidates through word of mouth for available positions and make promotion decisions on the basis of subjective criteria. This system prevents qualified African-Americans from competing equally for positions or even knowing that they are available.

1. "Glass Ceiling" and "Glass Walls"

65. Coca-Cola's promotion practices perpetuate a glass ceiling at the Company. Although 15.7% of the workforce is African-American, and 77.4% is Caucasian, African-Americans make up 36.5% of the grade 5 (largely administrative and clerical) positions in the Corporate Office, and only 7.8% of the grade 11 (professional and managerial) positions in the Corporate Office. Caucasians hold 87% of the grade 14 Director positions in the Corporate Office and 95% of the grade 15 Vice President positions in the Corporate Office, while African-Americans are 4.4% of the grade 14 Directors and 1.5% of the grade 15 Vice Presidents in the Corporate Office. (Exhibit B.)

66. The Company's promotion practices not only prevent the advancement of African-Americans to senior positions, they also erect artificial barriers, preventing qualified African-American employees from holding positions of power in departments or divisions carrying out significant activities at Coca-Cola. For example, of the handful of African-Americans in the Corporate Office holding positions at pay grade 13 or above, over half are in Human Resources or Corporate External Affairs, a community relations area. Indeed, while about 5% of high-level positions are held by African-Americans within the entire Corporate Office, when the Human Resources and Corporate Affairs Divisions are excluded, that percentage drops to 2.9%. (Exhibit B.) The Technical Operations Division, which oversees purchasing and production, has 82 high level Caucasians and only one high-level African-American, according to 1998 data from the Corporate Office. The same data reports that the Product Integrity Division -- which plays an important role in a Company that jealously guards its "secret formula" - has 42 high level Caucasians and zero high-level African-Americans. The Information Systems Division has one African-American at grade 13 or above, while the Global Marketing Division -- in charge of worldwide strategy for Coca-Cola's flagship brands -- has only two African-Americans in high-level positions, and 54 Caucasians. (Exhibit B.)

2. Job Posting and Targeted Selection Are Not Objective

67. The Company's policy and practice is to use a job posting system and a "targeted selection" process to fill some positions, but to allow pre-identification of candidates for posted positions as well as to allow such closed procedures as management nomination for conducting internal hires. The targeted selection procedure includes multiple one-on-one interviews between supervisors and the candidate, featuring scripted questions and specific "core competencies" to be evaluated and a scoring procedure for candidates.

68. According to information distributed to employees, positions that can be filled within a Director's area of responsibility - such as moving someone already in the department into an open position - are not required to be posted at all.

69. Even in cases where the Company posts positions and utilizes targeted selection, managers essentially are allowed to pre-select candidates before positions are posted. Job posting notices may explicitly state "Candidate Identified," denoting the fact that the hiring supervisor already has a candidate in mind.

70. Even when positions are posted and the formal targeted selection interview process is utilized, managers can, and do, manipulate the targeted selection process to pre-select candidates. Managers may conduct interviews and score candidates based on the objective criteria, and then disregard the scores if the pre-selected candidate is not the highest scorer. In discussion after interviews, the scores might be adjusted or the high scorer thrown out because the hiring manager doesn't like the candidate who places first under the objective standards.

71. Human Resources is usually represented during targeted selection by temporary employees or contract personnel, rather than by permanent employees with the clout and experience to prevent subversion of the policy.

3. Coca-Cola Uses Closed Procedures to Fill Positions

72. Frequently, hiring managers place hand-picked candidates into jobs informally, without any posting or targeted selection interviews, and Coca-Cola's policies and practices allow multiple forms of "sourcing," including "management nomination" or "development plans" or entities known as the "Career/Benchstrength Committees."

73. All of these alternate mechanisms are closed procedures where positions essentially are filled by word-of-mouth recommendations.

74. For some positions, there is a high-potential list maintained by the People Development Committee (PDC), used to fill positions.

75. A manager can block an employee from receiving a promotion and can prevent an individual from advancing in the Company. For example, if a manager makes a decision to hire a particular candidate already employed by the Company, the manager must first gain approval from the employee's current supervisor in order to hire the individual. Thus, the employee's current supervisor has the power to block the employee's promotion or transfer by refusing to release the employee. Therefore, managers seeking to fill positions from candidates already employed by the Company frequently notify current supervisors prior to interviewing a candidate, thereby allowing the current supervisors to discuss the candidates even before the hiring manager meets the candidates in person.

76. There is inadequate training on the targeted selection procedures.

4. This Discriminatory System Penalizes the Named Plaintiffs

77. In 1997, Plaintiff Ingram asked the Human Resources Division staff for assistance in transferring out of her department. The staff showed her position descriptions for open positions that were not posted on the system, making clear that numerous positions are filled without job posting. Despite seeing this secret list, Ingram was not offered any of the positions she interviewed for.

78. Plaintiff Clark has been frequently denied the opportunity to apply for promotions when positions are filled without being posted. In 1998, a supervisory position that was never posted was filled by a Caucasian who had no previous experience in security. In 1997, a Security Specialist position that was never posted was filled by a Caucasian administrative assistant. Clark's supervisor told him he could not be promoted to a supervisory position without first being promoted to specific interim positions. This effectively foreclosed Clark's chance to advance, since these interim positions are usually filled by handpicked candidates without any job posting or interviews.

79. Motisola Abdallah has repeatedly requested that she be promoted to a higher job grade. The Caucasian who held her position previously was promoted to a job grade four levels above Abdallah.

80. In summary, the promotion and internal hiring process at Coca-Cola gives a false hope of fair treatment. Caucasian candidates are handpicked for positions and a formal interview process may be a sham to disguise the fact that a candidate has been pre-selected. African-Americans are unable to apply for promotions because they do not even know a position is open or they may believe it does not matter whether they apply because of the history of discriminatory selection. This policy is no safeguard against discrimination and Coca-Cola's practices, including Defendant's perpetuation of a "glass ceiling" and "glass

walls," significantly harm the opportunities for advancement of African-Americans at the Company.

E. Defendant's Failure to Prevent and Remedy Discrimination

81. Upon information and belief, Coca-Cola has failed to monitor its compensation, promotion and evaluation systems for racially discriminatory practices. Defendant Coca-Cola maintains a pattern and practice of allowing supervisors to discriminate against African-American salaried employees in the terms and conditions of employment, and the Company fails to respond to complaints of unequal treatment, and fails to provide sufficient oversight or training of supervisors. Coca-Cola has not taken appropriate steps to ensure the effective and consistent implementation of nondiscriminatory employment and human resources practices.

82. Coca-Cola has failed to place a premium on compliance with federal Equal Employment Opportunity ("EEO") requirements. Although the Company has a policy requiring managers to be evaluated on their EEO performance, in practice, Coca-Cola frequently fails to perform this critical evaluation. There is inadequate EEO training for supervisors, thus the current discriminatory practices are likely to continue into the future.

83. Coca-Cola's practices and procedures for handling complaints of discrimination do not adequately ensure that complaints are investigated fairly, that prompt remedial action is taken in response to discrimination, that incidents of discrimination are prevented, and that all managers and supervisors are aware that race discrimination is taken seriously at all levels of the Company.

84. Coca-Cola fails to provide sufficient monitoring, training, oversight or accountability to ensure that employees are treated in a nondiscriminatory manner in terms of compensation, evaluations, promotions and other conditions of employment.

VI. ALLEGATIONS OF THE INDIVIDUAL NAMED PLAINTIFFS

A. Motisola Abdallah's Individual Claims

85. Motisola Abdallah has worked for Coca-Cola for over three years as a grade 5 administrative assistant. She currently works in Strategic Channel Marketing, a virtually all-white department, with one other African-American assistant. Until this year, Abdallah received positive performance appraisals.

86. For the past two years, Abdallah has been asking to be promoted to a pay grade 6. In 1998, when she applied for her current position in Strategic Channel Marketing, she again asked if it could be upgraded to grade 6. The Caucasian hiring manager to whom Abdallah reports, Rebecca Hanson, refused to promote Abdallah. Lynn Wolfe, a Caucasian administrative assistant who was Abdallah's predecessor in that position and formerly a grade 5 employee, was promoted to a pay grade 9.

87. The five Caucasian managers Abdallah supports have made inappropriate demands. They have asked her and the other African-American administrative assistant to run personal errands and do personal chores. They made Abdallah feel like their "black maid." Abdallah complained to her principal manager, who told her that he could not change grown people and their attitudes about race.

88. Abdallah tried to get assistance from the Human Resources Division over the past year to address the discriminatory treatment she received. Although the EEO office determined that at least one manager had been acting inappropriately, and should receive race sensitivity training, nothing has changed.

89. After Abdallah complained to Human Resources, she was retaliated against in her 1998 performance evaluation. Although she had always received positive evaluations prior to this incident, the 1998 evaluation, completed by one of the Caucasian managers against whom she had lodged a complaint, rated her as MM - Meets Minimum. The problems identified related to her job performance are vague and subjective. She is

currently under a Performance Improvement Plan. This evaluation does not fairly reflect her performance and is in retaliation for her complaints to HR and the EEO office.

B. Gregory Allen Clark's Individual Claims

90. Gregory Allen Clark is a 32-year old African-American male who has been employed as a Security Officer for Coca-Cola since 1996. Despite his extensive education and experience, he has been consistently denied promotional opportunities given to his Caucasian counterparts.

91. He is one of the few individuals in his department who has a college degree at either a supervisory or officer level. He also has completed post-graduate work.

92. He has eight years of prior experience in the security field, including serving as a Case Manager/Correctional Officer at Lorton Correctional Facility in Lorton, Virginia, from 1990 until 1993, and as the Operations Manager for Crowd Control Security Company in Stone Mountain, Georgia, from 1993 to 1994. In that position, Clark's job included supervisory responsibilities. In April of 1994, Clark began working at Grady Health Systems as a Security Officer in the Emergency Care Center. He stayed at Grady until approximately April of 1996, when he joined Coca-Cola as a Security Officer.

93. Steve Grant, an African-American Team Leader, was Clark's immediate supervisor for about the first year Clark worked at Coca-Cola. On several occasions, the Security Department has received letters complimenting Clark's performance.

94. In June of 1996, Clark applied for a Grade 7 Security Specialist position. This was a non-uniform position in the Internal Security Group with significant responsibilities. The position was posted, and the qualifications included having a bachelor's degree and one to two years of experience. The position was given to Felix Garcia, an officer with more seniority than Clark at Coca-Cola, but who did not have a bachelor's degree. There have been Caucasian officers, including Tim Gunther, who received promotions to the Internal Group after less than a year on the job as a Security Officer.

95. A Grade 8 Team Leader position was posted in February of 1997. The supervisory positions for Security Officers include Lead Officers, who serve as assistant supervisors, and Team Leaders, who serve as supervisors. Clark applied for the Team Leader position. He heard that candidates were being interviewed and asked Steve Grant about why he was not being interviewed. In response to his request to be interviewed, he received a call at home that night telling him he was being interviewed for the position the next morning, but the interview appeared to be just a formality.

96. The position announcement for the Team Leader position required a bachelor's degree in Criminal Justice or a related field, but it further stated that "extensive and varied" supervisory experience in security or law enforcement could be considered in place of a bachelor's degree. In addition, at a minimum, five years of experience in security, law enforcement or a related field and two to three years of security supervisory experience were required according to the job posting.

97. Tim Meadows, a Caucasian, was given the position. According to his resume, Tim Meadows had only about 18 months of supervisory experience when he applied for the position. He did not have a bachelor's degree. Moreover, he did not have "extensive and varied supervisory experience" to substitute for a degree because he had held only one supervisory position as Lead Officer at Coca-Cola, which he held for 18 months.

98. In April of 1997, a Lead Officer position was posted. The requirements, according to the job posting, were two years of college and/or two to three years of experience in a supervisory role. Clark applied for the position and he met with Michelle Swearingen, a Caucasian, responsible for staffing, who told Clark that he

was not chosen for an interview. He stated that he believed that he was qualified. Upon information and belief, she said that "I did not say you were not qualified, I said you were not chosen" and "sometimes managers handpick" people for these positions.

99. In March of 1997, three to four additional Security Specialist positions came available in the Internal Group without being posted. All of the positions were filled by Caucasians. In August of 1997, Seth Judd, a Caucasian, who was previously an administrative assistant in the office, was hired into a Security Specialist position without sufficient experience. The opening was not posted. Judd is currently pursuing his bachelors' degree at Shorter College and had not completed his degree when he was promoted.

100. Paul Markel told Clark that he could not be a Team Leader because he had not gone through the necessary steps. He had to first be a Console Operator, then a Lead Officer and then a Team Leader. The African-American Team Leaders have gone through those necessary steps, but Tim Meadows and Shannon Murray, who are both Caucasian, did not go through those steps. In addition, openings for those interim positions are frequently not posted and candidates commonly are handpicked to fill them.

101. In January of 1998, Shannon Murray, a Caucasian, was hired as Team Leader. The position was not posted, and Clark was not given a chance to be considered. Only one internal candidate got an interview, African-American Lead Officer Demone Phelps. It was widely believed that Phelps would get the position. It is Clark's understanding that Markley intervened and prevented Phelps from being hired into the position. Murray apparently did not go through the normal interview process.

102. For the previous Team Leader positions that were filled while Clark worked at Coca-Cola, the job posting required five years of experience in security, law enforcement or a related field and two to three years of security supervisory experience. Shannon Murray did not have any previous experience in security. She had previously held supervisory positions in the military, but they were in logistics and supply, not security.

103. During 1997 Clark applied for multiple jobs outside of Security at Coca-Cola and did not get interviews for any of them.

104. Clark timely filed charges with the EEOC against Defendant and the EEOC has issued a Right-To-Sue notice to Plaintiff Clark authorizing Clark's claims under Title VII. Plaintiff Clark has exhausted his administrative remedies.

C. Linda Ingram's Individual Claims

105. Linda Ingram is a current employee of Coca-Cola, where she began working in 1990. Although she received a promotion in 1995 to her most recent position as a Senior Information Analyst in the USA Operations Finance Department, she has encountered substantial difficulties as an African-American at Coca-Cola. In particular, since at least approximately 1995, when she began working in the Senior Information Analyst position, Ingram has encountered discrimination in pay, in promotions and in the terms and conditions of her employment. Ingram currently receives long-term disability benefits from Coca-Cola.

106. Coca-Cola originally hired Ingram to work at the Dunwoody location in June of 1990 as a customer service representative. She was quickly promoted to Technical Dispatch Advisor. At Dunwoody, she noticed that African-Americans worked disproportionately in lower job grades and less desirable positions, and had difficulty moving up in the Company.

107. In about 1993, Ingram became a Project Coordinator in the National Accounts Department at USA Fountain, performing data analysis. In this position, she earned good evaluations. In approximately 1995, she saw the posting for Senior Information Analyst, and applied for and received the promotion. At the time, she

moved from a grade 120 to a grade 212. In 1996 under the new job grade system, her position was assigned its current grade of 9.

108. In the Senior Information Analyst position, Ingram has never been paid what her position merits, and has been significantly under-compensated relative to similarly situated Caucasian employees. At least since 1996, her pay has been *below minimum* for her grade level. In 1996, the salary range for pay grade 9 was \$37,000 to \$67,000, but Ingram's salary was only approximately \$34,000. In 1997, her salary was under \$36,000, still below the minimum for her grade level. In 1997, an identical grade 9 Senior Information Analyst position was posted with a salary range of \$39,000 - \$77,000. Susan Buzzell, a Caucasian grade 9 Senior Informational Analyst with less seniority at the Company and similar educational qualifications, earned approximately \$43,000 in 1997. The other Caucasian grade 9 employees in her group performing similar work, including Marianne McNeil and Erica Newburg, were also paid above \$40,000 in that year. Until Ingram was placed on long-term disability in September of 1998, her pay continued to lag behind her Caucasian counterparts.

Year	Pay Grade 9 Salary Range	Ingram Salary	Buzzell Salary
1996	\$37,000 - \$67,000	about \$34,000	
1997	\$39,000 - \$77,000	less than \$37,000	about \$43,000

109. When Ingram was placed on her new work team in 1995, she was the only African-American on the team. Her Caucasian manager, Elaine Arnold, refused to give her adequate work space for several months. Ingram had a cubicle and no phone, while the Caucasian employees on the team had their own offices.

110. In 1996, Arnold yelled at Ingram during a team meeting with every team member present, and also stated, upon information and belief, "this is why you people don't get anywhere." Ingram initiated an EEO investigation and Arnold was terminated, apparently because of sexual harassment charges and other complaints and not because of Ingram's complaint. After Arnold was fired, other co-workers then revealed to Ingram that Arnold had referred to Ingram by racist and derogatory terms such as "black bitch" behind her back.

111. Ingram subsequently reported to Mary Ann McNeill and Ann Taylor, who were friends with Arnold and who blamed Ingram for initiating the EEO investigation. McNeill, in particular, harassed Ingram and treated her in a rude and condescending manner. McNeill gave Ingram assignments without adequate instructions, forcing Ingram to re-do her work, and periodically "tested" her knowledge, incorrectly suggesting that Ingram did not understand her own job. Ingram's Caucasian co-workers were not treated the same way.

112. Despite the obvious tensions in her work situation, Ingram's repeated requests for a transfer were not acted upon. She complained to Human Resources and the EEO office about her situation in 1996 and 1997. They promised to help her find a new job and arranged interviews. During this time, Human Resources personnel showed Ingram job descriptions for open positions that had not been posted. Although Ingram applied for various positions to transfer out of the department and participated in at least a half dozen interviews that seemed very positive, she did not get any positions. Many positions she applied for were filled by Caucasian employees. The only suggestions that Human Resources offered were that Ingram apply for positions below her pay grade, or move to a non-exempt position.

113. During 1996 and 1997, Ingram was forced to take periodic disability leave from the Company because of the major depression brought on by the harassing behavior within the team. Although her physician has

repeatedly stated in correspondence to the Company that Ingram would be medically able to work if she were moved into a different department away from the stressful and harassing environment of her current position, Coca-Cola has not transferred her, preventing her from being able to return to work. She has been on long-term disability since September, 1998.

D. Kimberly Gray Orton's Individual Claims

114. Kimberly Gray Orton was a thirteen-year veteran at Coca-Cola with sixteen years of experience in sales and marketing, rising from an entry-level trainee job to a grade 13 Director-level position, until her departure in October of 1998.

115. Orton began at Coca-Cola in 1985 in a field sales position after holding sales positions with Proctor & Gamble and Whitehall Laboratories. Orton completed a six-month training program at the Company, and was one of the top three members of her training class.

116. Over the next few years she held Account Manager positions in Seattle, St. Louis and New York, receiving good evaluations on her work. In about 1992, she moved to Atlanta as the Manager of Promotional Packaging Graphics for CCUSA, and supervised a group that grew to about fifteen. In about 1994, her group moved from CCUSA to Coca-Cola Corporate. At this time she was promoted to Director. When she became a Director in 1994, she knew of only four other African-Americans holding Director-level positions in the Company.

117. Orton was grossly underpaid for her work at Coca-Cola, earning tens of thousands less than Caucasian employees in comparable positions. Throughout her thirteen-year career at Coca-Cola, on multiple occasions she failed to reach the midpoint of the salary range for her pay grade.

118. Because Orton had a supervisory position, she reviewed the salaries of the employees in her group annually. She knew that Caucasian employees she supervised made more money than she did, so Orton essentially had to determine the salary increases for employees who already outpaced her in pay. In 1995, when she held a grade 12 Director position, she was making about \$78,000 and one of the people she was supervising, Dave Williams, a grade 11, was making approximately \$85,000. In 1996, she made \$80,000 and Elizabeth Barry, a grade 12 Caucasian employee under her supervision, was making \$86,000. Barry did not even have a college degree. In 1996, Orton's pay of \$80,000 put her well below the midpoint for her pay grade. In 1998, when Orton was a grade 13 Director making approximately \$99,000, she was one of the lowest paid Directors in the Company.

119. In 1995, Laveda Bryant, another employee Orton supervised, retired. Orton asked for her "T-doc" — a transfer document. A "T-doc" contains the employee's name, job grade, and increase; the document is used for promotions and held by Human Resources. Orton was given Lauren Bryant's T-doc by accident. She then realized that Bryant, who had only been with the Company about three years, and who had a comparable job, was making \$125,000. At the time, Orton was making about \$80,000.

COUNT ONE: DISCRIMINATION AGAINST

THE NAMED PLAINTIFFS AND THE CLASS IN VIOLATION OF SECTION 1981

120. Plaintiffs repeat and re-allege each and every allegation above as if set forth herein in full.

121. Defendant has intentionally discriminated against Plaintiffs and the Class in violation of Section 1981 by a pattern and practice of (1) paying African-Americans salaried employees less than comparable Caucasian employees; (2) denying promotions to qualified African-American salaried employees on the basis of race; (3) giving African-American salaried employees lower evaluations than Caucasian employees on the basis of race; and (4) denying African-American salaried employees equal terms and conditions of employment.

COUNT TWO: INTENTIONAL DISCRIMINATION AGAINST
PLAINTIFF CLARK IN VIOLATION OF TITLE VII

122. Paragraphs 28 through 84 and 90 through 104 are incorporated herein by reference.

123. Defendant's supervisors and other agents have engaged in the course of conduct described in the allegations of this complaint while acting in the course, scope and furtherance of their agency and employment relationship with Defendant.

124. Defendant has intentionally discriminated against Plaintiff Clark in violation of 42 U.S.C. § 2000e *et seq.* by (1) denying Clark promotions on the basis of race; (2) paying Clark less than comparable Caucasian employees on the basis of race; (3) denying Clark equal terms and conditions of employment.

COUNT THREE: RACIALLY DISPARATE IMPACT IN VIOLATION OF TITLE VII

125. Paragraphs 28 through 84 and 90 through 104 are incorporated herein by reference.

126. Defendant's policies and practices for determining compensation, including the use of Defendant's performance evaluation system as a basis for determining compensation, have a disparate impact on African-American salaried employees.

127. Defendant's policies and practices for determining promotions and job transfers, including the use of Defendant's performance evaluation system as a basis for determining advancement, have a disparate impact on African-American salaried employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class respectfully request that this Court grant the following relief:

- a. Certify this case as a class action;
- b. Enter a judgment that Defendant's acts and practices as set forth herein are in violation of the laws of the United States;
- c. Enter preliminary and permanent relief enjoining the discriminatory conduct necessary to end Defendant's discriminatory practices and prevent current and future harm to Plaintiffs and the Class;
- d. Award Plaintiffs and the Class lost wages, including back pay, front pay and lost fringe benefits, and including, without limitation, any lost benefits that would otherwise have been included in the 401(k) pension plans of Plaintiffs and the class, which resulted from the discrimination;
- e. Award Plaintiffs and the Class compensatory and punitive damages;
- f. Award Plaintiffs the costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees;
- g. Grant Plaintiffs and the Class such other and further relief as this Court finds necessary and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues of fact and damages in this action.

Dated: April 22, 1999

RESPECTFULLY SUBMITTED,

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