

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
DAVENPORT DIVISION**

WALKESHEIA WARD, DARLENA MCBRIDE, )  
TANYA GARDNER, ROBERT DONELSON, )  
RAQUEL MAIDEN, CHARLES SMITH, )  
LARONICA WILLIAMS, LATOYA YOUNG, )  
MACHELLE GUY, ROSCOE HAYMON, )  
ROBERT WILLIAMS, DAMENICA JOHNSON, )  
and JAMES THOMAS )

Law No. 3:04-CV-00159-RP-RAW

Plaintiffs, )

v. )

VON MAUR, INC., )

Defendant. )

**FOURTH AMENDED  
COMPLAINT**

Plaintiffs, Walkesheia Ward, Darlena McBride, Tanya Gardner, Robert Donelson, Raquel Maiden, Charles Smith, Laronica Williams, Latoya Young, Machelles Guy, Roscoe Haymon, Robert Williams, Damenica Johnson and James Thomas (collectively “Plaintiffs”), by their attorneys, Pedersen & Weinstein LLP, allege for their Fourth Amended Complaint against Defendant Von Maur, Inc. (“Von Maur” or “Defendant”) as follows:

**JURISDICTION AND VENUE**

1. Jurisdiction is based on 28 U.S.C. §§ 1331 and 1343, and principles of pendent and supplemental jurisdiction

2. Venue is proper in the Southern District of Iowa pursuant to 28 U.S.C. § 1391(a).

**PARTIES**

3. Walkesheia Ward (“Ward”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa.

Ward applied for a position with Defendant in May 2003, but was denied employment on the basis of her race.

4. Darlena McBride (“McBride”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa. McBride applied for a position with Defendant in May or June 2003, but was denied employment on the basis of her race.

5. Tanya Gardner (“Gardner”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Gardner applied for a position with Defendant in May 2003, but was denied employment on the basis of her race.

6. Robert Donelson (“Donelson”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Donelson applied for a position with Defendant in May 2004, but was denied employment on the basis of his race.

7. Raquel Maiden (“Maiden”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Maiden applied for a position with Defendant in August 2004, but was denied employment on the basis of her race.

8. Charles Smith (“Smith”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Smith applied for a position with Defendant in September 2004, but was denied employment on the basis of his race.

9. Laronica Williams (“L. Williams”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa. L. Williams applied for a position with Defendant in July 2003, but was denied employment on the basis of her race.

10. Latoya Young (“Young”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa. Young applied for a position with Defendant in 2003, but was denied employment on the basis of her race.

11. Machelie Guy (“Guy”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Guy applied for a position with Defendant in 2003, but was denied employment on the basis of her race.

12. Roscoe Haymon (“Haymon”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Illinois. Haymon applied for a position with Defendant in August 2004, but was denied employment on the basis of his race.

13. Robert Williams (“R. Williams”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa. R. Williams applied for a position with Defendant in April 2004 and June 2004, but was denied employment on the basis of his race.

14. Damenica Johnson (“Johnson”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of

Iowa. Johnson applied for a position with Defendant in 2001 or 2002 and again in or around June 2003, but was denied employment on the basis of her race.

15. James Thomas (“Thomas”), who is African American, is an adult individual who, at all times relevant to this Fourth Amended Complaint, has been a resident of the State of Iowa. Thomas applied for a position with Defendant in June of 2004, but was denied employment because of his race.

16. Von Maur is a retail department store with twenty-two stores in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska and Kansas. Additionally, Von Maur has several warehouses/distribution centers that support the retail stores. One such warehouse is located in Davenport, Iowa. At all times relevant to this Fourth Amended Complaint, Defendant employed more than fifteen (15) employees and was engaged in an industry affecting commerce.

### **FACTUAL ALLEGATIONS**

#### ***Von Maur Systematically Excludes African American Applicants From Employment***

17. Notwithstanding the African American population in Davenport and Scott County, Iowa, Von Maur employs very few African Americans in its retail store and warehouse. Upon information and belief, and based on Census Bureau data for Davenport and Scott County, in a race neutral environment, Von Maur would have employed two to three times the number of African Americans actually employed during the relevant time period.

18. The makeup of Von Maur’s employee population is skewed by race because of its intentionally discriminatory hiring practices and refusal to hire qualified African Americans. Some of Von Maur’s discriminatory hiring practices include, but are not limited to, the following:

- a. failing to interview qualified African Americans for available positions;

- b. requiring African Americans to submit multiple applications before granting them interviews;
- c. “losing” or “misplacing” applications of African Americans;
- d. discouraging African Americans from applying by claiming there are no available positions;
- e. subjecting African Americans to stricter scrutiny during interviews;
- f. ignoring African Americans’ inquiries regarding the status of their employment applications and/or efforts to provide additional information;
- g. exaggerating the job requirements to make it appear that African American applicants are not qualified; and
- h. denying African Americans employment based on pretextual claims, such as “poor credit history.”

***Von Maur Engaged In A Pattern And Practice Of Race Discrimination***

19. Von Maur has and continues to engage in a pattern and practice of race discrimination. As further evidence of Von Maur’s discriminatory animus, upon information and belief, the few African Americans who have been hired by Von Maur have been subject to race discrimination and retaliation. For example, one African American woman was terminated from Von Maur’s warehouse shortly after she complained that her supervisor made racist comments to her. Further, it is not uncommon for African Americans hired by Von Maur to be terminated within a short period of time for pretextual reasons. For example, the Davenport Civil Rights Commission recently ordered Von Maur to compensate a former African American employee who worked in Von Maur’s retail store after finding her termination was a pretext for discrimination.

20. Consistent with the discriminatory hiring practices described above, each Plaintiff applied for and was denied a position with Von Maur based on race, despite his or her qualifications. Moreover, following Von Maur's rejection of each Plaintiff, Von Maur continued to interview and hire equally or less qualified white and non-minority applicants for the same positions for which Plaintiffs applied. All of the foregoing demonstrate Von Maur's unlawful goal of striving to have an all-white, or nearly all-white, workforce.

***Walkesheia Ward***

21. Ward applied for a full time position with Von Maur on or about May 29, 2003. Ward learned that Von Maur was hiring from an advertisement in the local paper. At the time of her application, Ward was pursuing a degree at Scott Community College and had several years of work experience.

22. Von Maur Human Resource Manager, Lisa Harthoorn ("Harthoorn"), interviewed Ward at 10:00 a.m. on or around May 30, 2003. Von Maur provides interviewers such as Harthoorn with a list of questions called the Warehouse First Interview Questions. The list contains fifteen questions that are purportedly tailored to various positions. Upon information and belief, during Ward's interview, she was only asked approximately five questions from this list. Harthoorn did not ask questions that would have elicited Ward's strengths and qualifications. For example, Harthoorn failed to ask Ward "what are three qualities you feel you could bring to Von Maur," and "tell me about your most recent group effort. What was your role in reaching the goal?" Instead, Harthoorn asked whether Ward would be available to work overtime and whether her class schedule would interfere with the required work hours. Ward responded that she was interested in working overtime and that her school schedule would not interfere with the required work hours.

23. Notwithstanding Ward's qualifications, expressed interest in the position and availability, Harthorn subjected Ward to undue scrutiny during the interview. To Ward, it appeared that Harthorn had made up her mind about Ward before she asked a single question. Harthorn continued to press Ward about her hours of availability even after Ward confirmed that her classes would not interfere with work.

24. At no time during the interview did Harthorn provide any details to Ward about the available job. At the end of the interview, Harthorn told Ward that there were no more positions available. When Ward questioned Harthorn why she was interviewed if there were no positions available, Harthorn told her Von Maur conducted random interviews on occasion.

25. Later on May 30, 2003, Ward's Caucasian friend, Kristy Renkosik ("Renkosik"), also had an interview with Von Maur for the same position. Like Ward, Renkosik applied at Von Maur on May 29, 2003, in response to an advertisement in the local paper. Renkosik was also interviewed by Harthorn, but her interview experience was very different than Ward's.

26. Unlike Ward, upon information and belief, Harthorn asked Renkosik approximately ten questions from the Warehouse First Interview Question, including "what are three qualities that you feel you could bring to Von Maur?" (Renkosik apparently only answered with one quality) and "tell me about your most recent group effort. What was your role in reaching the goal?" Also unlike Ward, Renkosik was given a second interview with manager Cathy Rockwell. Renkosik was not asked about her availability for overtime, and unlike Ward, Renkosik was given a tour of the warehouse and was told that Von Maur was an excellent place to work. Von Maur did not tell Renkosik there were no positions available; instead, Von Maur offered Renkosik a position, notwithstanding the fact that only hours earlier, Harthorn had told Ward there were no positions available.

27. Ward subsequently received a letter from Von Maur that provided a different explanation for the reason she was not hired. The letter simply stated words to the effect of, “You were given consideration for a position; however, at this time we are pursuing other candidates.” Von Maur never provided a legitimate, nondiscriminatory reason for not hiring Ward.

28. After rejecting Ward and hiring Renkosik, Von Maur continued to pursue other candidates. Von Maur interviewed and hired several equally or less qualified white and non-minority applicants for the position Ward was told was no longer available.

***Tanya Gardner***

29. Gardner applied at Von Maur in or around May of 2003. Like Ward, Gardner applied in response to an advertisement in the local newspaper. After Gardner filled out her application, she was told by a Von Maur representative that she would be contacted by someone from Von Maur within a week.

30. However, when Gardner heard nothing from Von Maur, she went back to check on the status of her application. At that time, Gardner was told that Von Maur “lost” her application and was questioned whether she was sure she had applied. Gardner watched two women shuffle through papers, but they never found her application. Gardner was required to fill out a second application before she was interviewed.

31. Gardner was qualified for the position, and during her interview the Von Maur representative commented to Gardner that her past warehouse experience would be helpful for the job. Gardner felt that the interview went well, but shortly thereafter, she received a generic rejection letter. Von Maur never provided a legitimate non-discriminatory reason for failing to hire Gardner.



32. After Gardner was rejected, she continued to see advertisements that Von Maur was hiring for the same position. Von Maur continued to interview and hire equally or less qualified white and non-minority applicants.

***Darlana McBride***

33. McBride also applied at Von Maur in or around May of 2003. McBride filled out an application and, like Gardner, was told she would hear from Von Maur within a week. However, McBride never heard from Von Maur, so she went back to Von Maur to check on the status of her application. Also like Gardner, McBride was told that her application had been “lost.” McBride was required to fill out a second application before she was interviewed.

34. McBride felt the interview went well and was confident she would be offered a position, especially because the interviewer told her she was applying at a good time because Von Maur had so many positions available. Moreover, the interviewer told McBride Von Maur would call her to let her know where she would be placed. However, on or about June 12, 2003, McBride received a generic rejection letter. Von Maur never provided a legitimate non-discriminatory reason for failing to hire McBride.

***Robert Donelson***

35. Donelson applied to work in Von Maur’s warehouse in Davenport, Iowa in or around May 2004. Donelson was qualified for the position, but was not hired because of his race.

36. Donelson applied for the warehouse position shortly after he saw an advertisement in the paper. On Donelson’s employment application, as well as on the resume he submitted, Donelson listed his previous employment experience. Donelson was well-qualified for the position considering his fifteen years of warehouse experience, including supervisory responsibilities.

37. Donelson was briefly interviewed and told that someone would contact him to let him know whether he would be hired. When Donelson did not hear from Von Maur for three or four days after he applied, he called Von Maur to check on the status of his application. Von Maur told Donelson it was still reviewing applications and that someone would contact him soon. However, Von Maur never contacted Donelson and he was not hired. Donelson was surprised that Von Maur did not hire him given his experience and qualifications. Donelson felt confident that he was an excellent candidate for the job and believes the only reason he was not hired was because of his race.

38. Notwithstanding Von Maur's failure to hire Donelson, he continued to see advertisements in the newspaper indicating that Von Maur was seeking applicants for warehouse positions.

***Raquel Maiden***

39. Maiden applied to work for Von Maur in or around August 2004. Maiden applied for the position of sales associate in Von Maur's retail store in Davenport, Iowa. Maiden was qualified for the position, but was not hired because of her race.

40. Maiden applied to work for Von Maur shortly after she saw an advertisement in the paper. When Maiden applied in person in the Davenport store, she noticed there were no African American or other minority individuals working in the store.

41. On Maiden's employment application, she listed her previous employment experience, which included retail and sales experience. Given her experience and qualifications, Maiden was confident she was an excellent candidate for the job. However, shortly following Maiden's interview with a store manager, she received a letter from Von Maur which stated that she would not be hired.

42. After Maiden received the rejection letter from Von Maur, she continued to see advertisements in the newspaper indicating that Von Maur was seeking applicants for the same position of sales associate at its retail store.

***Charles Smith***

43. Smith applied to work for Von Maur in or around September 2004. Smith applied to work as a truck driver for Von Maur's warehouse in Davenport, Iowa. Smith was qualified for the position, but was not hired because of his race.

44. Smith applied for a position with Von Maur shortly after he saw an advertisement in the paper. On Smith's employment application, Smith listed his previous employment experience, which included approximately 30 years of experience as a truck driver and a clean driving record.

45. Smith was briefly interviewed at Von Maur's corporate headquarters when he submitted his application and was told that someone would contact him soon. Approximately two days later, Von Maur sent Smith a letter advising him it had obtained a copy of his consumer credit report and that the report contained "derogatory information." The letter also advised Smith to call the Director of Human Resources, Gayle Haun ("Haun"), if there was any information on the credit report that was inaccurate or that he would like to explain. The letter contained a telephone number for Smith to call Haun and further advised him that Von Maur planned to make its final hiring decision in approximately one week.

46. In response to Von Maur's letter, Smith contacted Von Maur at least twice because there was information on his credit report that he wanted to discuss. Von Maur failed to return Smith's calls, thereby denying him the opportunity to explain what he believed to be inaccuracies on his credit report. Accordingly, to the extent Von Maur attempts to use Smith's

credit report to justify its failure to hire Smith, Von Maur's failure to allow him to explain the credit report demonstrates this explanation is a pretext for discrimination.

47. Following Von Maur's rejection of Smith, he continued to see advertisements in the newspaper indicating that Von Maur was seeking applicants for the same position of truck driver.

***Laronica Williams***

48. In or around July 2003, L. Williams applied for a position as a sales associate at Von Maur at its retail store in Davenport, Iowa. L. Williams applied for this position in person shortly after she saw an advertisement in the paper for openings at Von Maur's retail store.

49. On L. Williams' application for employment with Von Maur, she listed her previous employment experience, which included significant retail experience. The day after L. Williams submitted her application, she called Von Maur's human resources department (where she had turned in her application) to follow up. The Von Maur employee with whom L. Williams spoke told L. Williams she could not find her application, but that someone would get back to her. However, no one from Von Maur called L. Williams.

50. A few days later L. Williams called Von Maur's human resources department again to check on the status of her application. L. Williams was told that Von Maur was still reviewing applications and that someone would call her. Once again, however, no one from Von Maur ever called L. Williams and she was not hired.

51. In addition, L. Williams' sister, Kara Williams ("Kara"), who is also African American, applied for a position at Von Maur at its retail store in Davenport, Iowa the same day L. Williams did. Kara also listed her retail experience on her application for employment, but she was not hired. At the time Kara applied, a Von Maur representative conducted a short

interview with her, but when Kara called Von Maur to check on the status of her application, she was told it could not be located.

***Latoya Young***

52. In or around 2003, Young applied to work in Von Maur's warehouse located in Davenport, Iowa. Young applied in person after she saw an advertisement in the paper for warehouse, clerical and data entry positions.

53. Young completed the Von Maur application, including her qualifications and experience. Young had relevant work experience.

54. A Von Maur representative told Young someone would call her if Von Maur was interested, but no one from Von Maur called. Young called Von Maur several times after she applied, but Von Maur failed to return her calls.

55. Young eventually received a generic rejection letter from Von Maur. The letter said the position for which she applied had been filled. However, within the next week or two, Young saw the same advertisement that Von Maur was seeking applicants for warehouse, clerical and data entry position.

***Machelle Guy***

56. Guy graduated from Western Illinois University in June 2000 with a degree in fashion merchandising. Shortly after she graduated, she applied for Von Maur's executive training program. Guy was aware of Von Maur's executive training program because Von Maur recruited fashion merchandising students on Western Illinois University's campus. Guy interviewed for the position in Davenport, Iowa, but the very next day she received a rejection letter.

57. Guy again applied to work for Von Maur in or around mid-2003. This time Guy applied after seeing an advertisement in the paper. According to the advertisement, Von Maur had an opening for the position of assistant buyer as well as open positions in the purchasing department.

58. In addition to her degree in fashion merchandising, by mid-2003, Guy had significant retail experience, including management experience.

59. Guy applied in person at Von Maur's Davenport, Iowa corporate office. Guy submitted her employment application and resume, which listed her educational background and work experience.

60. When Guy turned in her application, she asked the person at the service desk whether she could speak with someone from human resources. Guy was told that no one was available, but that someone would be in touch with her regarding her application. However, like the other Plaintiffs, Guy never heard from Von Maur.

61. Guy was very interested in Von Maur's executive training program, particularly given her degree and experience. Accordingly, Guy followed up with Von Maur on several occasions. Von Maur never returned Guy's calls. Notwithstanding Von Maur's failure to interview or hire Guy, she continued to see the advertisement in the paper that Von Maur was seeking to hire an assistant buyer and to fill positions in its purchasing department.

62. Von Maur's refusal to interview or hire Guy was based on her race. Upon information and belief, Von Maur hired a less qualified white woman into its executive training program. Indeed, one of Guy's former white co-workers was hired into the executive training program when she had only completed two years of college. Moreover, the white woman Von Maur hired was not pursuing a degree in fashion merchandising.

***Roscoe Haymon***

63. On or around August 12, 2004, Haymon applied to work as a truck driver for Defendant's warehouse in Davenport, Iowa. He applied for this position shortly after he saw an advertisement in the newspaper.

64. The advertisement Haymon saw in the paper stated that applicants should apply in person at Von Maur's corporate office. The qualifications specified in the ad included five years of driving experience, a clean driving record, and a neat appearance, among other things. Haymon met each of the stated qualifications. In fact, he had 27 years of experience as a truck driver for Eagle Foods.

65. Haymon went in to Von Maur on or around August 12, 2004 and submitted his application for employment. Haymon was told that no one was available to interview him, but that his application would be given to the supervisor.

66. On his application for employment with Von Maur, Haymon listed his 27 years of experience as a truck driver for Eagle Foods as well as awards he had received for his safe driving record. Notwithstanding his significant experience and clean driving record Von Maur never contacted Haymon to schedule an interview.

67. Instead, Haymon received a letter from one of Von Maur's human resource managers dated August 23, 2004. The letter stated, in part: "Thank you for applying for a position with Von Maur. You were given consideration for a position; however, at this time we are pursuing other candidates. We will retain your application in our active file for six months." After Haymon received this letter from Von Maur, he continued to see an advertisement in the newspaper indicating that Von Maur was seeking applicants for the position of truck driver.

68. Haymon was surprised that Defendant did not hire him given his experience and qualifications. Haymon felt confident that he was an excellent candidate for the job and believes the only reason he was not hired was because of his race. Indeed, Defendant hired at least three of Haymon's co-workers from his previous employer; all three are white. Each of these former co-workers had less experience than Haymon.

***Robert Williams***

69. R. Williams applied to work for Von Maur in or around late April 2004, and again in or around June 2004. R. Williams applied for a position in Defendant's warehouse in Davenport, Iowa.

70. R. Williams first applied for a position with Defendant shortly after he saw an advertisement in the newspaper. He submitted his application in person at Defendant's corporate office. After completing his application, R. Williams waited approximately two hours for an interview. The white female who ultimately "interviewed" R. Williams spoke with him for only approximately two or three minutes. By comparison, white applicants were interviewed for fifteen to twenty minutes. Despite his qualifications, R. Williams was not offered the job.

71. In or around June 2004, R. Williams saw another advertisement in the newspaper that Defendant was hiring for the same warehouse position. R. Williams again applied in person and waited approximately two hours for an interview. While he waited to be interviewed, R. Williams became acquainted with other applicants and spoke with several of them before and after their interviews. Several Caucasian applicants told R. Williams they were offered positions during their interviews.

72. When R. Williams was finally interviewed, the interview lasted less than five minutes and once again R. Williams was not offered a job. Given his qualifications and



experience, R. Williams was surprised that he was not hired, especially compared to some of the applicants who told R. Williams they were hired on the spot. For example, a white man who told R. Williams he was studying for his high school equivalency diploma told R. Williams he was hired. Likewise, a white woman wearing sweat pants and a T-shirt with stains was offered a job. R. Williams, who has a high school diploma and was studying to become an R.N., was dressed appropriately and felt confident that he was an excellent candidate for the job; he believes the only reason he was not hired was because of his race.

73. R. Williams's African American cousin also applied for the warehouse position the same day, but like R. Williams, he was not hired.

***Damenica Johnson***

74. Johnson first applied at Defendant in 2001 or 2002 in response to an advertisement for an opening in Von Maur's credit department. Johnson previously worked for a credit union for four years, and in the credit union's Visa department for two years, so Johnson believed her qualifications made her an excellent candidate for the position in Von Maur's credit department. However, Johnson also indicated on her application that she was interested in any other open positions.

75. Johnson applied in person and submitted a résumé with her application. Johnson also discussed her experience and qualifications with the person at the front desk who took her application. Johnson was told someone from Von Maur would contact her, but she was never contacted.

76. Johnson called Von Maur to follow up on her application approximately three times. The first time Johnson called, she was told Von Maur was still looking through the applications. The second time she called, Johnson was told that the position was filled.

However, after Johnson was told the position was filled, she continued to see the advertisement for the credit department position in the paper, so she called Von Maur again. This time Johnson was told Von Maur was no longer hiring for the position. Johnson was never interviewed.

77. Johnson applied for a similar position at Von Maur again in or around June 2003. Again she submitted her application and résumé in person and was told she would hear from someone at Von Maur shortly. However, despite her qualifications, no one from Von Maur contacted Johnson and once again she was not interviewed.

***James Thomas***

78. Thomas applied to work for Von Maur in or around June 2004. Thomas applied for a position in Defendant's warehouse in Davenport, Iowa after he saw an advertisement in the newspaper.

79. Thomas submitted his application in person at Defendant's corporate office. After completing his application, Thomas waited approximately two hours for an interview. While he was waiting, Thomas observed that there were many other African American applicants waiting to be interviewed. Thomas also watched as several white applicants were taken from the open interview area and given tours of the warehouse. Several of the white applicants, who did not appear to be dressed appropriately for an interview, were offered jobs.

80. Thomas was briefly interviewed by a white man who did not appear to be interested in Thomas, notwithstanding his prior warehouse experience. Thomas was not given a tour of the warehouse, nor was he offered a job.

81. By comparison, Thomas' white friend, who was not actively seeking employment because she was already employed, was offered a position during her interview. Unlike Thomas, his white friend had no warehouse experience.

82. Thomas followed up on his application by telephone with Von Maur several times, but he was told Von Maur was not hiring. Von Maur refused to hire Thomas because of his race.

***The Company Failed to Exercise Reasonable Care To Prevent and Correct Unlawful Conduct***

83. Von Maur's failure to hire Ward, Gardner, McBride, Donelson, Maiden, Smith, Williams, Young, Guy, Haymon, R. Williams, Johnson, Thomas and countless other African American applicants has resulted in a disproportionately low percentage of African American employees at Von Maur.

84. Defendant's management directed, encouraged, and participated in the above-described unlawful conduct. Further, Defendant failed to exercise reasonable care to prevent and correct promptly any race discrimination.

85. Plaintiffs did not unreasonably fail to take advantage of any preventive or corrective opportunities provided by Defendant or to avoid harm otherwise.

86. The discrimination described above was consistent with Defendant's standard operating procedure.

87. Defendant acted with malice or with reckless indifference to the federally protected rights of Plaintiffs.

***Timely Charges of Discrimination***

88. Ward timely filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") and Davenport Civil Rights Commission in August of 2003. Ward requested a Notice of Right to Sue on December 27, 2004. The Right to Sue was issued on January 11, 2005.

89. Donelson, Maiden, Smith, Haymon and R. Williams filed charges of race discrimination with the EEOC in February and March of 2005. Upon receipt of their Notices of Right to Sue, Donelson, Maiden, Smith, Haymon, and R. Williams will seek leave to amend this Complaint to add additional counts under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et al., as amended by the Civil Rights Act of 1991 (“Title VII”).

***Plaintiffs Suffered Damages***

90. As a direct result of the unlawful conduct Plaintiffs experienced, they have suffered extreme emotional distress.

91. Plaintiffs have lost wages, compensation and benefits as a result of Defendant’s unlawful conduct.

92. Plaintiffs’ careers and reputations have been irreparably damaged as a result of Defendant’s unlawful conduct.

93. Plaintiffs suffered loss of enjoyment of life, inconvenience and other non-pecuniary losses as a direct result of Defendant’s unlawful conduct, as well as incurring attorneys’ fees and costs.

***Punitive Damages***

94. Defendant acted and/or failed to act with malice or willfulness or reckless indifference to Plaintiffs’ rights. The conduct alleged herein was willful and wanton and justifies an award of punitive damages.

**COUNT I**

**RACE DISCRIMINATION IN VIOLATION OF TITLE VII**

**(Ward v. Von Maur)**

95. Ward realleges paragraphs 1 through 94 and incorporates them by reference as paragraphs 1 through 94 of Count I of this Complaint.

96. Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et al., as amended by the Civil Rights Act of 1991 (“Title VII”), makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment, on the basis of race.

97. By the conduct as alleged herein, Defendant subjected Ward to racial discrimination in violation of Title VII.

98. Plaintiffs assert claims under Title VII under both a disparate treatment theory of liability, and a disparate impact theory of liability.

**COUNT II**

**RACE DISCRIMINATION IN VIOLATION OF SECTION 1981**

**(All Plaintiffs v. Von Maur)**

99. Plaintiffs reallege paragraphs 1 through 98 and incorporate them by reference as paragraphs 1 through 98 of Count II of this Complaint.

100. 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991, (“Section 1981”), prohibits discrimination based on race in the performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

101. By the conduct as alleged herein, Defendants subjected Plaintiffs to race discrimination in violation of Section 1981.

**COUNT III**

**RACE DISCRIMINATION  
IN VIOLATION OF IOWA CIVIL RIGHTS ACT**

**(Ward v. Von Maur)**

102. Ward realleges paragraphs 1 through 101 and incorporates them by reference as paragraphs 1 through 101 of Count III of this Complaint.

103. The Iowa Civil Right Act, Iowa Code §216.1 et seq., makes it unlawful to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the race of such applicant or employee

104. By the conduct as alleged herein, Defendant subjected Ward to race discrimination in violation of the Iowa Civil Rights Act.

**COUNT IV**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
IN VIOLATION OF IOWA COMMON LAW**

**(All Plaintiffs v. Von Maur)**

105. Plaintiffs reallege paragraphs 1 through 104 and incorporate them by reference as paragraphs 1 through 104 of Count IV of this Complaint.

106. Iowa law recognizes a cause of action for intentional infliction of emotional distress, which makes unlawful certain extreme and outrageous conduct that results in severe emotional distress.

107. Defendant intended to inflict severe emotional distress or had actual knowledge that severe emotional distress was certain to occur by engaging in the conduct described herein, in violation of Iowa law.

108. Through its regular decision-making channels, and by persons authorized to act on behalf of Defendant, Defendant directed, encouraged and participated in the wrongful conduct alleged herein.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that this Court find in their favor and against the Defendant as follows:

- a. Declare that the acts and conduct of Defendant violate Title VII of the Civil Rights Act of 1964 and 1991, Section 1981, and the Iowa Civil Rights Act;
- b. Declare that the acts and conduct of Defendant violate Iowa common law;
- c. Award Plaintiffs the value of all compensation and benefits lost as a result of Defendant's unlawful conduct;
- d. Award Plaintiffs the value of all compensation and benefits they will lose in the future as a result of Defendant's unlawful conduct under Title VII (Ward), Section 1981, Iowa Civil Rights Act (Ward), and Iowa common law;
- e. In the alternative to paragraph (d), reinstate Plaintiffs with appropriate promotions and seniority and otherwise make Plaintiffs whole;
- f. Award Plaintiffs compensatory damages under Title VII (Ward), Section 1981, Iowa Civil Rights Act (Ward), and Iowa common law;
- g. Award Plaintiffs punitive damages under Title VII (Ward), Section 1981, Iowa Civil Rights Act (Ward), and Iowa common law;
- i. Award Plaintiffs prejudgment interest;
- j. Award Plaintiffs reasonable attorneys' fees, costs and disbursements; and
- k. Award Plaintiffs such other relief as this Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the Complaint.

Dated: August 26, 2005

Respectfully submitted,

/s/ Jill Weinstein

Jill Weinstein

Pedersen & Weinstein LLP

309 W. Washington

Suite 1200

Chicago, IL 60606

(312) 855-1200

(312) 855-1207 (facsimile)

[jweinstein@pwillp.com](mailto:jweinstein@pwillp.com)