

2006 WL 1755339 (N.D.Ill.) (Trial Pleading)
United States District Court, N.D. Illinois,
Eastern Division.

Keith SMITH, Ria Mcdougal, John Lewis, Vernetta Duckworth, Janise Page, Jacques Walker, Shu-Ra Rogers, Todd Lindberg, Anthony Brown, Jason Readus, Dwight Brown, Robert Jackson Billy Brown, Crystal Barbee, Marquisha Hudson, Dajuana Young Anthony Barlow, Larry Posey on behalf of themselves and a class of Similarly situated African-American employees, Plaintiffs,

v.

NIKE RETAIL SERVICES, INC., Defendant.

No. 03 C 09110.
May 12, 2006.

Third Amended Complaint

Ines Monte, Noelle Brennan, Brennan & Monte, Ltd., 321 S. Plymouth Ct., Suite 1515, Chicago, Illinois 60604, (312) 431-1801, (312) 341-1808 (fax), Randall D. Schmidt, The University of Chicago Law School, Edwin F. Mandel Legal Aid Clinic, 6020 S. University Ave., Chicago, Illinois 60637, (773) 702-9611, (773) 702-2063 (fax)

Ines Monte, One of Plaintiffs' Attorneys

Judge Milton I. Shadur.
Magistrate Judge Morton Denlow.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) et seq. ("Title VII"), Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a), and the Civil Rights Act of 1866, 42 U.S.C. § 1981 to correct unlawful employment practices on the basis of race and to provide appropriate relief to Keith Smith, Ria McDougal, John Lewis, Vernetta Duckworth, Janise Page, Jacques Walker, Shu-Ra Rogers, Todd Lindberg, Anthony Brown, Jason Readus, Dwight Brown, Robert Jackson, Billy Brown, Crystal Barbee, and Marquisha Hudson, DaJauna Young, Anthony Barlow, Larry Posey and a class of similarly situated African-American former and current Nike Retail Services employees (hereinafter "Plaintiffs"). Plaintiffs allege that Nike Retail Services (hereinafter "Nike" or "Defendant") has engaged in an ongoing pattern or practice of race discrimination against its African-American employees, which includes the following discriminatory treatment: (1) segregating its African-American employees into the lowest paying jobs; (2) failing to provide African-American employees with equal promotional opportunities; (3) disciplining and terminating African-American employees pursuant to rules that were not enforced the same way against Caucasian employees; (4) treating its African-American employees less favorably in terms of benefits and classification; and (5) maintaining a hostile work environment for all its African-American employees based on this disparate treatment, coupled with a workplace filled with racial slurs by managers and employees, unfounded accusations of theft and abuse of discount and commission policies overwhelmingly directed at African-American employees, and unwarranted and excessive monitoring of African-American employees and customers.

JURISDICTION AND VENUE

1. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, § 1337 and § 1343. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, Section 102 of the Civil Rights Act of 1991 and the Civil Rights Act of 1866.

2. Venue is proper in the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 1391, because the unlawful conduct alleged herein was committed and continues to occur within the boundaries of the Northern District of Illinois.

PARTIES

3. Plaintiff Keith Smith is an adult African-American male and resident of Cook County, Illinois.
4. Plaintiff Ria McDougal is an adult African-American female and resident of Cook County, Illinois.
5. Plaintiff John Lewis is an adult African-American male and resident of Cook County, Illinois.
6. Plaintiff Vernetta Duckworth is an adult African-American female and resident of Cook County, Illinois.
7. Plaintiff Janise Page is an adult African-American female and resident of Cook County, Illinois.
8. Plaintiff Jacques Walker is an adult African-American male and resident of Cook County, Illinois.
9. Plaintiff Shu-Ra Rogers is an adult African-American male and resident of Cook County, Illinois.
10. Plaintiff Todd Lindberg is an adult African-American male and resident of Cook County, Illinois.
11. Plaintiff Anthony Brown is an adult African-American male and resident of Cook County, Illinois.
12. Plaintiff Jason Readus is an adult African-American male and resident of Cook County, Illinois.
13. Plaintiff Dwight Brown is an adult African-American male and resident of Cook County, Illinois.
14. Plaintiff Robert Jackson is an adult African-American male and resident of Cook County, Illinois.
15. Plaintiff Billy Brown is an adult African-American male and resident of Cook County, Illinois.
16. Plaintiff Crystal Barbee is an adult African-American female and resident of Cook County, Illinois.
17. Plaintiff Marquisha Hudson is an adult African-American female and resident of Cook County, Illinois.
18. Plaintiff DaJauna Young is an adult African-American female and resident of Cook County, Illinois.
19. Plaintiff Anthony Barlow is an adult African-American male and resident of Cook County, Illinois.
20. Plaintiff Larry Posey an adult African-American male and resident of Cook County, Illinois.
21. Defendant Nike employs approximately 23,000 persons worldwide and has its World Headquarters in Oregon and is incorporated under the laws of that state.
22. Nike owns facilities in Oregon, Tennessee, North Carolina and the Netherlands, and operates facilities for 15 Niketown stores, over 80 Nike Factory Stores, two NikeGoddess boutiques and over 100 sales and administrative offices.
23. In the fiscal year 2003, Nike's United States revenues were \$4.7 billion dollars.
24. At all times pertinent to this action Defendant Nike has been doing business in Illinois by operating a Niketown Store located at 669 N. Michigan Avenue, Chicago, Illinois, 60611. At all relevant times herein, Nike Retail Services, Inc. employed over five hundred individuals.

25. On October 4, 2002, Plaintiff Keith Smith filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission (“EEOC”) alleging race discrimination against Nike Retail Services.

26. In particular, Smith alleged that Nike discriminated against him and a class of African- American employees, by failing to promote or transfer Smith and other African-American employees because of race, by denying Smith and other African-American employees benefits because of race, by disciplining and discharging Smith and other African-American employees because of race and by subjecting Smith and other African-American employees to unequal terms and conditions of employment because of race.

27. Smith also alleged that he was retaliated against for complaining about racially motivated comments and actions. Smith alleged that after he reported the Store Manager, Lori Wigod, for stating that she was “sick of those people,” in reference to African-American employees, he was terminated.

28. The Charge filed by Smith included the following class wide allegations:

Nike enforced the attendance/tardiness and progressive discipline policies in a racially biased way in that they enforced such policies more harshly against African-American employees. African-American employees, including myself, were disciplined and discharged for alleged attendance/tardiness issues. Non-African-American employees with comparable or worse incidents of attendance/tardiness were not disciplined or discharged.

African-American employees, including myself, applied for and were denied positions in sales. Mostly non-African-American employees were promoted or transferred to those positions. Nike regularly failed to post sales positions and filled them with non-African-American employees.

African-American employees, including myself were regularly denied benefits even though we worked over 20 or 30 hours a weeks because Nike classified us as non-eligible for benefits. Non-African-American employees working over 20 or 30 hours a week received benefits because they were classified as eligible for such benefits.

29. On May 13, 2003, Plaintiff Ria McDougal filed a Charge of Discrimination with the EEOC alleging race and sex discrimination against Nike Retail Services. Plaintiff McDougal alleged that Nike discriminated against her and a class of African-American employees in promotions and transfers. Plaintiff McDougal further alleged that Nike discriminated against her and a class of African-American employees in enforcing its attendance/tardiness and progressive discipline policies in a racially biased manner. McDougal also alleged that Nike discriminated against her and a class of African-American employees by subjecting them to unequal terms and conditions of employment with respect to duties assigned and manner of supervision.

30. McDougal further alleged that she was discharged in retaliation for her opposition to discrimination. McDougal also alleged that she was discriminated based on her sex in that she was the only female in the stockroom and was terminated for pretextual reasons.

31. The Charge filed by McDougal included the following class wide allegations:

I also believe that a class of similarly situated African-American employees working for Nike have been discriminated against based on their race.

Nike enforces its attendance/tardiness and progressive discipline policies in a racially biased way.

African-American employees are denied promotion or transfers to positions in sales.

African-American employees were subjected to unequal terms and conditions of employment.

32. On September 19, 2003 the EEOC mailed a Notice of Right to Sue to Keith Smith and Ria McDougal.

33. Within 90 days after receiving the Notice of Right to sue, on December 17, 2003, Plaintiffs Smith and McDougal filed the original complaint in this matter, alleging that they and a class of similarly situated African-American employees had been discriminated based on race.

CLASS ALLEGATIONS DEFINITION OF THE CLASS

34. The representative Plaintiffs sue on behalf of themselves and on behalf of all other similarly situated African-American employees and former employees of Defendant employed during the period between December 17, 1999 and the present. This general Hostile Work Environment Class consists of all current and former African-American employees employed by Niketown Chicago at any time between December 17, 1999 and the present. Plaintiffs allege these individuals have been subjected to a racially hostile work environment in violation of the law.

35. Further, based on the claims in this action, the representative Plaintiffs propose the following four subclasses under Title VII and § 1981:¹

(a) A “Job Segregation/Wage Disparity” Subclass comprising of all current and former African-American employees of Niketown Chicago during the period between December 17, 1999 and the present who were assigned to lower paid positions in the stockroom or as cashiers because of their race. This Subclass is represented by Plaintiffs Smith, McDougal, Walker, D. Brown, Hudson, Young and Jackson;

(b) A “Promotion” Subclass consisting of all current and former African-American non- managerial employees of Niketown Chicago during the period between December 17, 1999 and the present who were denied promotions or deprived of the ability to pursue promotions because of their race. Plaintiffs Smith, McDougal, Lewis, Duckworth, Walker, Readus, A. Brown, D. Brown, B. Brown, Jackson, Hudson, Young, and Posey are the proposed representatives for this Subclass;

(c) A “Discipline” Subclass consisting of all current and former African-American non- managerial employees of Niketown Chicago during the period between December 17, 1999 to the present who suffered from racially-biased application of workplace rules and regulations, including but not limited to, time and attendance, employee discount, employee checkouts, suspensions, and terminations. All named Plaintiffs, except Barlow, represent the Discipline Subclass.

(d) A “Benefits Subclass” consisting of all current and former African-American part- time employees of Niketown Chicago during the period between December 17, 1999 and the present who applied for, requested, and/or were entitled to benefits but were denied those benefits because of their race. The proposed representatives of this Subclass are Plaintiffs Smith, Duckworth, A. Brown, Readus, Jackson, B. Brown, Barbee, Hudson, and Young.

JOB SEGREGATION

36. Defendant Nike engaged in systemic racial discrimination with respect to assignments and placement of its employees. Specifically, it hired African-American employees into stockroom and cashier positions, which were the lowest paid and dirtiest jobs. Those positions started at an hourly salary less than \$8.00 per hour, while Commissioned Sales employees made three or four times that amount.

37. Between December of 1999 and August of 2004, Defendant Nike employed a total of one hundred twenty-nine employees in its stockrooms. Of those, **only ten were Caucasian**. However, **seventy-nine were African-American**. A closer look at the Caucasian employees shows that six of the ten worked in the stockroom for less than three months. Moreover, only three of the Caucasian employees hired were hired as “regular” employees.

38. During the period between January of 2001 and May of 2003, Nike employed thirty-three Commissioned Sales Specialists, the highest paid employees. Of those thirty-three employees, **eight were African-American** and **twenty-three were Caucasian**. Thus, in the **lowest paid positions**, approximately **seventy-five percent of employees were African-American**, while **less than five percent were Caucasian**. During the same time period, in the **highest paid positions**, **less than twenty-five percent were African-American**, while almost **seventy-five percent were Caucasian**.

FAILURE TO PROMOTE

39. Defendant Nike systematically and routinely failed to promote or transfer African-American employees. For example: Nike routinely failed to promote or transfer those working in the stockroom or cashier positions into the more highly paid positions of Sales Associates or Commissioned Sales Specialists (“Sales Positions”); Nike routinely failed to promote or transfer African-American Sales Associates to more highly paid Sales Specialist positions; Nike routinely failed to post any Sales Position openings, thus denying the opportunity for internal candidates to apply. Although African-American employees frequently applied for, inquired about or otherwise sought such promotions, they were routinely denied the same. Defendant Nike would instead hire less qualified Caucasian individuals who were often less senior or experienced than the qualified African-American employees.

40. Upon information and belief, Nike actively recruited applicants for Sales Positions at predominantly Caucasian suburban high schools and hired employees with no sales experience, rather than promoting internal qualified African-American candidates.

FAILURE TO PROVIDE BENEFITS

41. Nike discriminated against its African-American employees by refusing to offer them full-time employment. African-American employees were routinely denied full-time status as compared to their non-African-American counterparts. For example, between January 2001 and May of 2003, Nike hired **no full-time African-Americans for any Sales Positions**.

42. Defendant Nike also discriminated against its African-American employees through its practice of hiring African-American employees as part-time employees and denying them benefits, though they worked hours that should have entitled them to these benefits. Between December of 1999 and August of 2004, Defendant Nike hired **one hundred thirty-eight African-Americans into “part-time” slots, while only forty Caucasians were hired as “part-time.”** Many employees who worked full-time hours but were classified as “part-time” requested benefits but Defendant Nike denied those requests.

43. Nike also refused to provide African-American employees benefits for which they were eligible. Nike purposefully categorized African-American employees as less than full-time, although many of these employees worked full-time hours. Nike’s policy indicates that if an employee’s hours change for 90 consecutive days, so should that employee’s status. Notwithstanding this policy, Nike failed to provide full-time status and benefits to those African-American employees who worked more than 29 or 30 hours a week. Nike also failed to provide benefits to those African-American employees who worked between 20 and 30 hours, although Nike’s own policy provided that such benefits were available and those benefits were provided to similarly situated Caucasian employees.

44. The benefits denied to African-American employees include Paid Time Off (Vacation Benefits), Health Benefits, Dental Benefits, Vision Benefits, access to Healthcare Reimbursement Accounts, Life Insurance, and Short and Long Term Disability.

HOSTILE WORK ENVIRONMENT/RACIAL HARASSMENT

45. African-American employees were subjected to a racially hostile working environment by, among other things, repeated accusations of theft; interrogations by Loss Prevention personnel and Management employees intended to coerce unfounded “confessions” of theft or misuse of company discounts; repeated use and tolerance of racial slurs and epithets in the workplace; excessive in-store monitoring of African-American employees, but not Caucasian employees; subjecting African-American employees, but not Caucasian employees, to “pat downs” and extensive searches of their belongings upon leaving of the store; and following African-American employees outside of the store in efforts to support unfounded allegations of “theft.”

46. African-American employees were also subjected to a racially hostile working environment by Nike’s excessive monitoring of African-American customers, but not Caucasian customers. Nike employees would be instructed to closely scrutinize African-American customers by following them around the store, calling their banks and/or credit card companies to get a “physical description” of African-American customers; refusing to allow African-American customers to make exchanges and/or refunds. Similarly situated Caucasian customers were not treated in this fashion.

47. For example, on one occasion an African-American player for the Green Bay Packers was suspected of stealing solely because of his race. On another occasion, an African-American coach for the Milwaukee Bucks was unfairly scrutinized because of his race. The Store Manager, Lori Wigod, would state in response to young African-American males entering the store- "here comes trouble."

48. Despite repeated complaints of harassment and a hostile working environment to numerous management officials, Defendant Nike failed to adequately address or respond to these complaints or to otherwise remedy or prevent the discrimination.

CLASS REQUIREMENTS MET

49. The individuals in the Class are so numerous that joinder of all members is impracticable. Plaintiffs estimate that there are approximately 230 to 250 members of the Class. Further, with respect to the identified subclasses, Plaintiffs estimate that the Segregation/Wage subclass would include more than 100 members. Plaintiffs estimate that it is conceivable that the Promotion subclass has approximately 250 members. Plaintiffs estimate that the Discipline subclass would include at least 72 African-American employees who were terminated during the relevant period for alleged attendance violations or violations of company policy; Plaintiffs estimate that this Discipline class could conceivably include all African-American employees employed during the identified timeframe, as many of these employees were also subjected to some level of discipline short of termination. Plaintiffs estimate that the Benefits subclass has approximately 138 members.

50. 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 Nike's actions violated federal civil rights laws, including Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.* ("Title VII"), Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a), and the Civil Rights Act of 1866, 42 U.S.C. § 1981;

(b) Whether Nike illegally segregates its workforce and relegates its African-American employees to the lowest paid positions of stockroom and cashier over more desirable positions and then limiting their advancement by failing to post openings;

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

(d) Whether Nike maintains written and unwritten policies and/or practices for determining promotions and/or transfers that discriminate against the Class on the basis of race;

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

(f) Whether Nike fails to provide full-time employment to its African-American employees because of their race;

(g) Whether there are statistically significant disparities between full-time employment awarded to African-American employees and full-time employment awarded to similarly situated Caucasian employees, sufficient to permit an inference of intentional discrimination;

(h) Whether Nike fails to provide benefits to its African-American employees eligible for said benefits because of their race.

(i) Whether there are statistically significant disparities between benefits awarded to African-American employees and benefits awarded to similarly situated Caucasian employees, sufficient to permit an inference of intentional discrimination;

(j) Whether Nike engaged in a practice of discriminatory discipline based on race pursuant to a corporate policy that left

hiring decisions to the unfettered discretion of “local level” managers, and allowed for a lack of general subjectivity built into Nike’s disciplinary system;

(k) Whether Nike maintains and fails to remedy or prevent a hostile working environment for its African-American employees;

(l) Whether Defendant had a practice of failing to address complaints of racial harassment and discrimination;

(m) 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;

(n) Whether Nike’s conduct constitutes a pattern or practice of discrimination against the Class justifying an award of lost wages, benefits or other similar relief to individual members of the Class; and

(o) Whether Nike’s conduct constitutes a pattern or practice of discrimination against the Class justifying an award of compensatory and punitive damages to individual members of the Class.

51. The claims of the representative parties are typical of the claims of the class.

52. The named Plaintiffs will fairly and adequately represent the interests of the Class. The Court has appointed skilled and experienced counsel to represent the Class in this litigation.

53. Defendant Nike has acted or refused to act on grounds generally applicable to the Class, making final injunctive or declaratory relief appropriate.

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

55. Issues common to the class predominate over individual issues.

INDIVIDUAL NAMED PLAINTIFFS’ CLAIMS Keith Smith’s Individual Claims

56. Plaintiff Smith was hired by Defendant in May of 2000 into a position in the stockroom. He was terminated in July of 2002.

57. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy and policies regarding benefits and compensation;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying sales positions;

(c) being unjustly disciplined and discharged, while similarly situated Caucasians were not disciplined and/or discharged;

(d) being denied benefits even though he worked over 20 or 30 hours a week because Nike classified him as non-eligible for benefits, although non-African-American employees working over 20 or 30 hours a week received benefits because they were classified as eligible for such benefits;

(e) being retaliated against after complaining to Human Resources of Store Manager Lori Wigod’s discriminatory statements by being terminated; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

58. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

59. Nike was aware of Smith's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

60. Plaintiff Smith seeks reinstatement to a sales position at Niketown Chicago.

Ria McDougal's Individual Claims

61. Plaintiff McDougal was hired by Defendant in November of 2000 into a stockroom position. She was terminated in July of 2002.

62. During her employment with Nike, she was subjected to discrimination due to her race and sex. Examples of this discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy and policies regarding benefits and compensation;

(b) receiving unwarranted negative performance evaluations due to her race;

(c) being denied promotions and/or being denied the opportunity to pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying positions;

(d) being discharged for unsubstantiated allegations of misconduct, because of her race;

(e) being subjected to retaliatory treatment for complaining about the unfair treatment of African-Americans by Nike;

(f) being subject to sex discrimination in work assignments and positions available; and

(h) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

63. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

64. Nike was aware of McDougal's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

65. At this time, Plaintiff McDougal is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

John Lewis' Individual Claims

66. Plaintiff Lewis was hired by Defendant in June of 1993 into a position in the stockroom. After several years, he was promoted to Sales Associate and subsequently became a Sales Specialist. After complaining of race discrimination, he was stripped of his Sales Specialist position. He left Defendant's employment in October of 2002.

67. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, short-term disability policy and policies related to benefits and compensation

opportunities;

(b) being denied a promotion into the better-paying Sales Positions until after he complained to the Equal Employment Opportunity Commission;

(c) upon receiving a Sales Position, Lewis was segregated with other African-American Sales employees into the Basketball Room;

(d) being retaliated against for bringing complaints of race discrimination to Nike's headquarters department;

(e) being stripped of his Sales Specialist benefits and positions after complaining of race discrimination;

(f) having his African-American customers treated with hostility by Nike management because of those customers' race;

(g) being subjected to heightened scrutiny and unfounded accusations of commission fraud; and

(h) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48 including observing Caucasian customers being treated preferentially over African-American customers by Nike.

68. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

69. Nike was aware of Lewis' complaints, but failed to take any corrective action to remedy or prevent the discrimination.

70. At this time, Plaintiff Lewis is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Vernetta Duckworth's Individual Claims

71. Plaintiff Vernetta Duckworth is a former employee of Nike, where she worked from approximately December of 2000 until March of 2004. Duckworth held different positions with Nike, including a position in the maintenance department and later, a sales position.

72. During her employment with Nike, she was subjected to discrimination due to her race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy and policies regarding benefits and compensation;

(b) receiving unwarranted negative performance evaluations due to her race;

(c) being denied promotions and/or being denied the opportunity to pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying positions;

(d) being followed from the store and falsely accused of conduct that impugned her honesty and her moral character;

(e) being subjected to unwarranted interrogation tactics and offensive treatment by Nike's Loss Prevention department, including being interrogated for over two hours, being advised that her meeting with Loss Prevention had been tape recorded without her consent, being pressured into reporting other employees' alleged misconduct that was unrelated to the accusations made against her;

(f) being discharged for unsubstantiated allegations of misconduct, because of her race;

(g) being subjected to retaliatory treatment for complaining about the unfair treatment of African-Americans by Nike; and

(h) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

73. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

74. Nike was aware of Duckworth's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

75. At this time, Plaintiff Duckworth is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Janise Page's Individual Claims

76. Plaintiff Janise Page is a current employee of Nike, where she has worked for approximately fourteen years as a cashier, since June of 1992.

77. During her employment with Nike, she has been subjected to discrimination due to her race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, dress policy, sick leave policy, employee discount policy;

(b) receiving unwarranted negative performance evaluations due to her race;

(c) being subjected to retaliatory treatment for complaining about the unfair treatment of African-Americans by Nike; and

(h) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

78. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

79. Nike was aware of Page's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

Jacques Walker's Individual Claims

80. Plaintiff Jacques Walker is a former employee of Nike, where he worked from approximately July of 2001 until July of 2002. Walker was employed in a stockroom position.

81. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy and policies regarding benefits and compensation;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying sales positions;

(c) being unjustly disciplined and discharged, while similarly situated Caucasians were not disciplined and/or discharged; and

(d) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

82. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

83. Nike was aware of Walker's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

84. At this time, Plaintiff Walker is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Shu-Ra Roger's Individual Claims

85. Plaintiff Shu-Ra Rogers is a former employee of Nike, where he worked from approximately October of 1996 through February of 2005. He has been employed in Nike's stockroom and in sales.

86. During his employment with Nike, he has been subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, dress policy, sick leave policy, employee discount policy and policies related to benefits and compensation opportunities, including being unfairly denied a bonus and being unfairly reprimanded, while similarly situated Caucasian employees were not denied bonuses and were not reprimanded;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying sales positions;

(c) being subjected to retaliatory treatment for complaining about the unfair treatment of African-Americans by Nike;

(d) being subjected to heightened scrutiny;

(e) being forced to quit his employment at Nike as a result of discrimination; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

87. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

88. Nike was aware of Rogers' complaints, but failed to take any corrective action to remedy or prevent the discrimination.

89. At this time, Plaintiff Rogers is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Todd Lindberg's Individual Claims

90. Plaintiff Todd Lindberg is a former employee of Nike, where he worked from October of 1996 through September of 1998, then again from April of 2000 through December of 2002. He was employed in a sales position on the second floor.

91. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, dress policy, sick leave policy, employee discount policy and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying sales positions;

(c) being unjustly disciplined and discharged, while similarly situated Caucasians were not disciplined and/or discharged;

(d) being subjected to heightened scrutiny; and

(e) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

92. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

93. Nike was aware of Lindberg's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

94. At this time, Plaintiff Lindberg is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Anthony Brown's Individual Claims

95. Plaintiff Anthony Brown is a former employee of Nike, where he worked from September of 1999 through December of 2002. He was employed as a cashier and later in a part-time position in sales on the second floor.

96. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, short-term disability policy and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying full-time sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying full-time sales positions;

(c) being unjustly disciplined, while similarly situated Caucasians were not disciplined;

(d) being subjected to heightened scrutiny; and

(e) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

97. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

98. Nike was aware of Anthony Brown's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

99. At this time, Plaintiff Anthony Brown is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Jason Readus' Individual Claims

100. Plaintiff Jason Readus is a former employee of Nike, where he worked from October of 2000 through November of 2001. He was employed in a stock position in the basement.

101. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, dress policy, sick leave policy, employee discount policy and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying sales positions;

(c) being falsely accused of theft and subjected to unwarranted interrogation tactics and offensive treatment by Nike's Loss Prevention department, including being ordered to write down "everything he had stolen" and being falsely told that Nike had video tapes that showed him stealing merchandise;

(d) being discharged for unsubstantiated allegations of misconduct, because of his race;

(e) being instructed that he was never to set foot in a Nike store again, without any justification for this prohibition; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

102. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

103. Nike was aware of Readus' complaints about his mistreatment, but failed to take any corrective action to remedy or prevent the discrimination.

104. At this time, Plaintiff Readus is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Dwight Brown's Individual Claims

105. Plaintiff Dwight Brown is a former employee of Nike, where he worked from November of 2000 through May of 2001. He was employed in a stockroom position on the fourth floor.

106. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, short-term disability policy and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying full-time sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying full-time sales positions;

(c) being unjustly disciplined, while similarly situated Caucasians were not disciplined;

(d) being subjected to retaliatory treatment for complaining about the unfair treatment of African-Americans by Nike; and

(e) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

107. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

108. Nike was aware of Dwight Brown's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

109. At this time, Plaintiff Dwight Brown is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Robert Jackson's Individual Claims

110. Plaintiff Robert Jackson is a former employee of Nike, where he worked from April of 2001 through July of 2001. He was employed in apparel, but was transferred to a stockroom position. His position in apparel was given to a Caucasian individual.

111. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, dress policy, and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying full-time sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying full-time sales positions;

(c) being unjustly disciplined and discharged, while similarly situated Caucasians were not disciplined and/or discharged; and

(d) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

112. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

113. Nike was aware of Jackson's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

114. At this time, Plaintiff Jackson is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Billy Brown's Individual Claims

115. Plaintiff Billy Brown is a former employee of Nike, where he worked from October of 1992 until July of 2004. For his first seven years of employment, he worked in the maintenance department and in the stockroom. After repeated requests and applications for Sales Positions, he was eventually promoted to Sales Associate. In July 2004 he was terminated for allegedly misusing the company discount.

116. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, and policies related to benefits and compensation opportunities;

(b) being denied promotions and/or the opportunity to even pursue promotions to better-paying full-time sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying full-time sales positions;

(c) being unjustly disciplined, while similarly situated Caucasians were not disciplined;

(d) receiving unwarranted negative performance evaluations due to his race, which resulted in less compensation;

(e) being falsely accused of theft and subjected to unwarranted interrogation tactics and offensive treatment by Nike's Loss Prevention department, including being ordered to write down "everything he had stolen" and being required to sign a blank "Nike Loss" statement;

(f) being instructed to monitor and watch African-American customers, but not similar Caucasian customers; and

d) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

117. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

118. Nike was aware of Billy Brown's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

119. Plaintiff Billy Brown seeks reinstatement to a position at Niketown Chicago.

Crystal Barbee's Individual Claims

120. Plaintiff Crystal Barbee is a former employee of Nike, where she worked as a cashier and customer service employee from July of 2003 through 2005.

121. During her employment with Nike, she has been subjected to discrimination due to her race. Examples of this race discrimination include:

a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy, and policies related to benefits and compensation opportunities;

b) being denied raises that were provided to similarly situated non-African-American employees in the same position;

c) being instructed to provide less favorable treatment to African-American customers with respect to customer service, returns, and refunds

(d) being instructed to monitor and watch African-American customers, but not similar Caucasian customers;

(e) having complaints made about customer discrimination that were made directly to the Store Manager and to Nike's Human Resources Department at the Corporate headquarters repeatedly ignored; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

122. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

123. Nike was aware of Barbee's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

124. At this time, Plaintiff Barbee is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Marquisha Hudson's Individual Claims

125. Plaintiff Hudson is a former employee of Nike, where she worked from approximately May of 2003 until May of 2004. Hudson was employed as a cashier on the first floor, though she applied for Sales Positions.

126. During her employment with Nike, she was subjected to discrimination due to her race. Examples of this race discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as the attendance policy, sick leave policy, employee discount policy and policies regarding eligibility for full-time benefits and compensation;

(b) being denied promotions and/or being denied the opportunity to pursue promotions to better-paying sales positions, while Caucasians who were less qualified and who had less tenure with Nike were readily hired into those better-paying positions;

(d) being followed from the store by Loss Prevention and being subjected to heightened scrutiny by Loss Prevention when she shopped in the store with family members, while similarly situated Caucasian employees were not subjected to such treatment; and

(e) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48. Hudson observed African-American customers being treated suspiciously, while similarly situated Caucasian customers were not. For example, Nike contacted the bank of an African-American customer to verify his identity because of purchases he was making with his corporate credit card, while not treating similarly situated Caucasian customers in the same humiliating manner. Nike directed African-American employees to watch African-American customers and not Caucasian customers. Nike subjected African-American employees to humiliating pat downs and searches, while similarly situated Caucasian employees were not subjected to this mistreatment.

127. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

128. Nike was aware of Hudson's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

129. At this time, Plaintiff Hudson is willing to seek reinstatement to a full-time position with full benefits only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Adjourn Young's Individual Claims

130. Plaintiff DaJauna Young is a former employee of Nike, where she worked from May of 2002 until November of 2005. Young was hired by Defendant into a position in the stockroom. Subsequently, she obtained a position as cashier.

131. During her employment with Nike, she was subjected to discrimination due to her race. Examples of this discrimination include:

(a) applying for sales positions at Nike on a number of occasions, including in the Spring of 2002, October of 2003, early 2004 and in the summer of 2004 and never being offered a position in sales, although less qualified white employees have been given sales positions. She also applied for a customer service position in the summer of 2004 and that position was instead given to a recently hired white woman;

(b) being subjected to a hostile environment based on race, by employees and supervisors using the word "nigger," by inappropriate references to her skin tone, and through belittling and demeaning treatment by managers;

(c) being subjected to a hostile environment by Nike's targeting African-American customers for discriminatory treatment in return and exchange policies and targeting of African-American customers for suspicion of theft, although not targeting similarly situated Caucasian customers;

(d) being subjected to retaliation after complaining about inappropriate comments made by a coworker, whereas the coworker who she had complained about was promoted; and

(e) being subjected to a hostile work environment, as alleged with regard to the entire class, including observing Caucasian customers being treated preferentially over African-American customers by Nike.

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

132. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

133. Nike was aware of Young's complaints, but failed to take any corrective action to remedy or prevent the discrimination.

134. At this time, Plaintiff Young is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Anthony Barlow's Individual Claims

135. Plaintiff Barlow is a former employee of Niketown Chicago. Barlow was hired by Defendant in May of 1992. In 1996 he became manager of shipping and receiving for Defendant. In 1998 Barlow became a business manager and in 1999, Barlow became the Assistant Store Manager. Barlow left Niketown Chicago in January of 2002.

136. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this discrimination include:

(a) working in a segregated work environment and observing Nike employees being segregated by race;

(b) being allowed to "act" as Store Manager, but being denied the promotion to same;

(c) being denied promotion to Store Manager position, while a less qualified and less tenured Caucasian employee was promoted into Store Manager position;

(d) observing Nike's refusal to promote qualified African-American employees into sales positions, while simultaneously hiring unqualified white employees into sales positions;

(e) being subjected to retaliation for objecting to Defendant's racial profiling of customers and employees with respect to suspected theft; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, including observing Caucasian customers being treated preferentially over African American customers by Nike.

(g) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

137. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

138. At this time, Plaintiff Barlow is willing to seek reinstatement only if steps are taken by Defendant Nike to eliminate racial discrimination and racial harassment.

Larry Posey's Individual Claims

139. Plaintiff Posey is a current Niketown Chicago employee, hired by Defendant in November of 2000 into a position on the sales floor. During his employment with Nike, he was subjected to discrimination due to his race. Examples of this discrimination include:

(a) being subjected to disparate treatment in the application of work rules and policies, such as attendance policy, scheduling policy, employee discount policy and policies regarding benefits and compensation;

(b) being denied promotions and/or the opportunity to even pursue promotions to better visual merchandising positions, while Caucasians who were less qualified and who had less tenure with Nike were readily encouraged to apply and hired into those better-paying visual merchandising positions;

(c) being subjected to retaliation for making complaints of race discrimination;

(d) being falsely accused of theft and subjected to unwarranted interrogation tactics and offensive treatment by Nike's Loss Prevention department;

(e) being unjustly disciplined and suspended, while similarly situated Caucasians were not disciplined and/or suspended; and

(f) being subjected to a hostile work environment, as alleged with regard to the entire class, including observing Caucasian customers being treated preferentially over African American customers by Nike.

(g) being subjected to a hostile work environment, as alleged with regard to the entire class, *inter alia*, in Paragraphs 45-48.

140. Despite numerous and repeated complaints to Nike's Human Resources department and to his managers, the discriminatory treatment continued.

141. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Nike, due to their race.

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

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

143. Defendant has intentionally discriminated against Plaintiffs and the Class in violation of Section 1981 by engaging in a pattern and practice of 1) segregating its employees by race; 2) failing to promote African-American employees into higher paying Sales Positions; 3) failing to provide benefits and/or full-time employment to eligible African-American employees; 4) applying workplace rules and regulations in a racially biased manner, including the terminating African-American employees in a racially biased manner; and 5) maintaining a hostile and abusive environment for African-American employees by, among other things, falsely accusing African-American employees of theft, instructing Loss Prevention employees to follow African-American employees inside and outside of the store, strictly monitoring the African-American customers, but not the Caucasian customers, and applying stricter standards for accepting returns or exchanges from African-American customers.

COUNT TWO: DISCRIMINATION AGAINST THE NAMED PLAINTIFFS AND THE CLASS IN VIOLATION OF TITLE VII

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

145. Defendant has intentionally discriminated against Plaintiffs and the Class in violation of Title VII by engaging in a pattern and practice of 1) segregating its employees by race; 2) failing to promote African-American employees into higher paying Sales Positions; 3) failing to provide benefits and/or full-time employment to eligible African-American employees; 4) applying workplace rules and regulations in a racially biased manner, including the terminating African-American employees in a racially biased manner; and 5) maintaining a hostile and abusive environment for African-American employees by,

among other things, falsely accusing African-American employees of theft, instructing Loss Prevention employees to follow African-American employees inside and outside of the store, strictly monitoring the African-American customers, but not the Caucasian customers, and applying stricter standards for accepting returns or exchanges from African-American customers.

PRAYER FOR RELIEF

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

- a. Certification of the Class and Subclasses;
- 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 and requiring Defendant to take steps to end its discriminatory practices and prevent current and future harm to Plaintiffs and the Class, including, but not limited to:
 - Revised procedures which would require that Defendant Nike's managers use fair and objective criteria for assigning newly hired employees to open positions, without regard to race;
 - Revised procedures policies and practices related to Defendant Nike's Loss Prevention program which would reduce the subjective targeting of African-American employees and customers;
 - Establishment of effective EEO complaints and investigation procedures;
 - Revised discipline procedures to reduce subjectivity;
 - Implementation of a meaningful system of oversight to ensure that Defendant Nike's managers are using objective criteria in personnel matters, without regard to race, including the establishment and monitoring of measures to assure equity in job assignments, hiring and promotions, discipline, and benefits;
 - Revised procedures for evaluating internal and external job applicants which would reduce the subjectivity in the current system and would require Defendant Nike's managers to use fair and objective criteria for hiring and promotion decisions; and
 - Diversity/EEO training for all hiring managers, supervisors, Loss Prevention employees and retail employees;
- d. Award Plaintiffs and the Class lost wages, including back pay, front pay and lost benefits, and including, without limitation, any lost benefits that would otherwise have been available to the Plaintiffs and Class without the discrimination;
- e. Award Plaintiffs and the Class compensatory and punitive damages;
- f. Award reinstatement to the following named Plaintiffs: Keith Smith, Ria McDougal, John Lewis, Vernetta Duckworth, Jacques Walker, Shu-Ra Rogers, Todd Lindberg, Anthony Brown, Jason Readus, Dwight Brown, Robert Jackson, Billy Brown, Crystal Barbee, Marquisha Hudson, DaJauna Young, and Anthony Barlow.
- g. Award reinstatement to class members who were discharged because of race discrimination.
- h. Award reinstatement to class members who resigned due to race
- i. Award Plaintiffs the costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees; and
- j. 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 facts and damages in this action.

Dated: May 11, 2006

RESPECTFULLY SUBMITTED,