2003 WL 21543539
United States District Court,
S.D. New York.

Robert WRIGHT et al., Plaintiffs,
v.
Henry J. STERN et al., Defendants.
UNITED STATES OF AMERICA, Plaintiff,
v.
CITY OF NEW YORK and New York City Department of Parks and Recreation, Defendants.

No. 01 Civ. 4437(DC), 02 Civ. 4699(DC). | July 9, 2003.

In consolidated actions, employees and the United States alleged that a city department of parks and recreation, and certain of its officers and employees, violated federal, state, and city discrimination laws. On the plaintiffs' motion for class certification, the District Court, Chin, J., held that certification was warranted for proposed class of present and former African-American and Hispanic full-time employees of the department.

Motion granted.

Attorneys and Law Firms

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James B. Comey, United States Attorney for the Southern District of New York, By: Lisa R. Zornberg, Ramon E. Reyes, Judd C. Lawler, Assistant United States Attorneys, New York, NY, for the United States.

Michael A. Cardozo, Corporation Counsel of the City of New York, By: Barbara Butler, Kit Wong, New York, NY, for Defendants.

Opinion

MEMORANDUM DECISION

CHIN, J.

***1** In these consolidated actions, plaintiffs in the first case ("plaintiffs") and the United States in the second case allege that the New York City Department of Parks and Recreation ("DPR") and certain of its officers and employees violated federal, state, and city discrimination laws. Plaintiffs, eleven African-American and Hispanic current and former DPR employees, and the United States allege that defendants have engaged in a pattern and practice of employment discrimination on the basis of race, color, and national origin.

Plaintiffs move pursuant to Fed.R.Civ.P. 23 for an order certifying a class of present and former African-American and Hispanic full-time employees of DPR who have worked at DPR since May 24, 1998. For the reasons set forth below, plaintiffs' motion is granted.

STATEMENT OF THE CASE

A. *The Facts*

DPR is a municipal agency responsible for the security and maintenance of some 28,300 acres of parkland and approximately 1,700 parks, playgrounds, malls, squares, and public spaces. (Benepe Decl. ¶ 2). DPR also operates thirty recreation or community development centers throughout New York City, which offer cultural, athletic, and social activities to neighborhood residents. (*Id.*).

DPR has 3,381 year-round employees, all of whom are civil service employees. (Stark Decl. ¶ 4). "Caucasians"[1] constitute 46% of the DPR workforce; African-Americans and Hispanics comprise 54% of the workforce. (Runyan Aff. ¶ 7).

[1] Plaintiffs use the term "Caucasian" to describe employees who are not African-American or Hispanic. They include as "Caucasian" not only Whites, but also Asian-Americans, Native Americans, and those whose race is "unidentified" according to DPR data. (Runyan Aff. ¶ 5, n. 1). Between 1995 and 1999, according to plaintiffs, the percentage of White employees at DPR was 41.14%, the percentage of Asian-American employees was 3.73%, the percentage of Native American employees was 0.50%, and the percentage of employees whose race was "unidentified" was 1.02%. (*Id.* ¶ 6). Plaintiffs state that much of the DPR data they used to calculate statistics did not indicate the number of Asian-American or Native American employees, but that approximately 4% of employees fit this discription. (*Id.* ¶ 5, n. 1). Although I do not believe that it is correct to include Asian-Americans, Native Americans, and those whose race is unidentified in the category "Caucasian," plaintiffs' statistics have been compiled in this fashion, and thus I must use plaintiffs' nomenclature.

1. ***DPR Employment Classifications***
There are 220 civil service job titles at DPR. (Stark Decl. ¶ 6). One position, "Commissioner," is "unclassified," and all other positions are "classified." Classified service is divided into four classes-exempt, non-competitive, labor, and competitive, with "the majority of titles ... in the competitive class." (*Id.* at ¶ 6). Employees in different classes are subject to different terms of employment. (*Id.* at ¶ 8). In addition, DPR employees are represented by seven unions. Each union contract sets minimum salaries and non-discretionary salary increments. (*Id.* at ¶¶ 9, 10). The compensation of managerial employees is determined by the "Managerial Pay Plan," which sets minimum and maximum salaries for employees at eight assignment levels. (*Id.* at ¶ 11).

Appointments and promotions of employees in the competitive class are to be made either permanently from a civil service list of employees who have passed an examination or by provisional appointment. (DeMarco Decl. ¶¶ 18, 20). Provisional appointments can be made only when there is no civil service list of qualified employees for the position. (Stark Decl. ¶ 8). Under the citywide contract between the City and District Council 37, and the "Working Conditions Agreement," available positions must be posted. (Pl. Exs. 3 at 38 & 4 at ¶ 7). DPR utilizes, in addition to civil service titles, "in-house titles" that, plaintiffs allege, do not correspond to employees' civil service titles. (2d Am.Compl.¶ 28(a)(v)).

2. ***The "Class Of" Program***
***2** In 1994, then-Commissioner Henry Stern created the "Class Of" program to "expose recent college graduates to [DPR] and to city government." (Pl.Ex. 7). "Class Of" employees are recruited from colleges across the country. The recruitment brochure promises that "[r]ecent graduates who come to [DPR] work closely with senior officials, learning from them on a daily basis," and "take on a high level of responsibility within the agency." (*Id.*). According to a "Class Of" employee quoted in the brochure, recruits "may be considered for positions normally given to individuals with more experience." (*Id.* at 8). Plaintiffs allege that "Class Of" employees are predominantly Caucasian. (Runyan Aff. ¶ 18).

B. ***Plaintiffs' Claims***
For the purposes of this motion, I accept plaintiffs'[2] allegations as true. *See Weigmann v. Glorious Food, Inc.,* 169 F.R.D. 280, 284 (S.D.N.Y.1996). Plaintiffs also offer statistical evidence to support their contention that class certification is warranted.

[2] The named plaintiffs are Robert Wright, Kathleen Walker, Henry Roman, Elizabeth Rogers, David Ray, Odessa Portlette, Paula Loving, Angelo Colon, Jacqueline Brown, Walter Beach III, and Carrie Anderson.

Plaintiffs seek to certify a class with respect to the following claims:

1. ***Discrimination in Promotion and Compensation***
Plaintiffs allege that DPR engages in disparate treatment by denying African-American and Hispanic employees advancement opportunities and salary increases comparable to similarly situated "Caucasian" employees. They allege that DPR engages in discriminatory practices, causing a significant racial disparity in compensation, promotions, and the composition of managerial and higher level staff.

As to compensation, plaintiffs allege that they receive lower salaries than their "Caucasian" counterparts. (2d Am. Compl. ¶¶ 132 (Portlette), 207 (Wright)). They allege that "Class Of" recruits receive higher raises than African-American and Hispanic personnel, and that Caucasian employees receive raises exceeding those prescribed by the collective bargaining agreements, whereas African-American and Hispanic employees do not. (*Id.* at ¶ 184 (Walker)).

As to promotions, plaintiffs allege that DPR maintains a "dual-track" system of advancement by: (1) failing to post job openings and conduct regular interviews for available positions that are later filled by "Caucasian" employees (*id.* at ¶¶ 199-206 (Wright), 134, 136 (Portlette), 125-26 (Loving (unposted job filled by less experienced "Class Of" employee)), 119 (Colon), 68 (Anderson)); (2) failing to conduct annual performance evaluations (*id.* at ¶¶ 88 (Brown), 104 (Colon), 123 (Loving), 152(Ray), 169 (Roman), 198 (Wright), 180 (Walker)); and (3) creating "in-house titles" that confer greater authority on "Caucasian" employees with less experience than their African-American and Hispanic colleagues. (*Id.* at ¶ 28(a)(v); Brown Dep. at 48; Loving Dep. at 33-34).

Plaintiffs further allege that DPR prevents the advancement of African-American and Hispanic employees by elevating them to supervisory positions on a seasonal basis, and then returning them to non-supervisory positions rather than awarding them provisional or permanent promotions for which they are qualified. (2d Am.Compl.¶ 28(b); Ray Dep. at 49, 55; Rogers Dep. at 63-64).

***3** Finally, plaintiffs allege that "Class Of" recruits have greater access to higher-ranking personnel, thus affording

them professional contacts and recognition that facilitate their advancement. (Loving Dep. at 33-34; Kay Dep. at 220 ("["Class Ofs"] had an opportunity to spend time with [Stern]."")). They allege that DPR's use of "in-house titles" and the "Class Of" program contributes to the significant racial disparity at the managerial level.

Plaintiffs offer statistical evidence that from 1995 until 2001, African-Americans and Hispanic employees were paid between 5.8% and 12% less than "Caucasian" employees in the same occupations with equivalent experience, a differential of at least 6.12 standard deviations. (Pl. Expert Rpt. at 16). Plaintiffs' statistics also show that although "Caucasians" made up only 46% of the workforce between 1995 and 1999, 77% of DPR promotions went to "Caucasian" employees during the same period; and that from 1995 to 2001, 80% of all managerial positions were held by "Caucasians." (Runyan Aff. ¶¶ 9, 14). In addition, plaintiffs present statistics that show that between 1996 and 2001, 79% of those with the "in-house" titles of "Deputy Commissioner, Borough Commissioner, Chief of Recreation, Deputy Chief of Recreation, Chief of Operations, and Deputy Chief of Operations" were "Caucasian." (*Id.* at ¶ 16).

2. ***Segregation in Work Locations and Resources***

Plaintiffs allege that DPR engages in disparate treatment by concentrating African-American and Hispanic employees at facilities in neighborhoods with a predominantly minority population. Plaintiffs claim to have been offered assignments only at DPR locations in minority populated areas and denied assignments in, or transfers to, predominantly "Caucasian" areas. (2d Am. Compl. ¶ 173; Roman Dep. at 20-22). In addition, plaintiffs allege that racial segregation exists within administrative offices, such that "Caucasian" employees occupy perimeter offices while African-American and Hispanic employees are clustered at work stations in the middle of the floorspace. (2d Am.Compl.¶¶ 145-49).

Plaintiffs further allege that facilities located in predominantly minority-populated areas had fewer resources and were in worse repair than those in predominantly "Caucasian" neighborhoods. (2d Am. Compl. ¶ 117 (Colon)).

Plaintiffs offer statistical evidence that 29.6% of African-American and Hispanic employees work at recreational centers in predominantly African-American and Hispanic neighborhoods, while only 16% of African-American and Hispanic employees work in predominantly "Caucasian" neighborhoods, a differential of 7.9 standard deviations. (Pl. Expert Report at 18, Table 2). Plaintiffs' statistics also show that the percentage of African-American and Hispanic employees decreases as the concentration of "Caucasians" in the surrounding neighborhoods increases. (*Id.* at Table 2).

3. ***Hostile Work Environment***

***4** Plaintiffs offer testimonial evidence of a racially hostile environment at DPR. (2d Am. Compl. ¶¶ 193 (Walker), 174 (Roman), 141-43 (Portlette)). They allege that Stern and other employees routinely made racially derogatory remarks. Plaintiffs also allege that nooses were displayed at DPR facilities in Staten Island and Queens, and that the Chief of Administrative Services, Susan Silvestro, hung a noose in her office window on Randall's Island during Halloween despite complaints from her staff.

4. ***Retaliation and Deterrence***

Plaintiffs allege that they suffered retaliation after complaining of discrimination at DPR. They allege that they received warnings not to proceed with discrimination complaints, were subject to internal investigations by the DPR Advocate's Office, and suffered harassment after meeting with the EEO Officer or filing discrimination complaints. (2d Am. Comp. ¶¶ 81-82 (Beach); Brown Dep. at 103-05; Colon I Dep. at 8; Colon II Dep. at 66-67; Walker Dep at 100-02; Portlette Dep. at 102-03).

Plaintiffs allege that retaliation is widely known at DPR and has deterred other African-American and Hispanic employees from complaining of discrimination. (Ray Dep. at 63-64; Roman Dep. at 100-01).

C. ***Prior Proceedings***

Plaintiffs have exhausted their administrative remedies. Plaintiffs filed charges of discrimination with the Equal Employment Opportunity Commission (the "EEOC") beginning in March 1999. The same year, the United States Department of Justice ("DOJ") commenced its own investigation into plaintiffs' claims. On January 30, 2001, the EEOC issued a Determination finding reasonable cause to believe that DPR engaged in a pattern and practice of racial discrimination through its promotions and assignments, and referred its findings to DOJ.

Plaintiffs commenced their lawsuit on May 24, 2001. On June 19, 2002, the United States filed the second of these actions against the City and DPR alleging a pattern and practice of racial and national origin discrimination in promotional decisions. By order of this Court dated July 15, 2002, the two cases were consolidated.

This motion to certify the class followed.

DISCUSSION

A. *Class Certification*

In seeking class certification, plaintiffs must first demonstrate that all of the requirements of Fed.R.Civ.P. 23(a) have been satisfied. *See In re VISA Check/Mastermoney Antitrust Litig.,* 280 F.3d 124, 132-33 (2d Cir.2001); *Caridad v. Metro-North Commuter R.R.,* 191 F.3d 283, 291 (2d Cir.1999). Second, plaintiffs must show that the putative class falls within one of the three categories set forth in Rule 23(b). *In re VISA Check/Mastermoney,* 280 F.3d at 133. Plaintiffs here seek certification under Rule 23(b)(2) and (3).

Although a court must conduct a rigorous inquiry in determining whether the requirements of Rule 23 have been satisfied, *see Gen. Tel. Co. of Southwest v. Falcon,* 457 U.S. 147, 161, 102 S.Ct. 2364, 72 L.Ed.2d 740 (1982), it must accept plaintiffs' allegations as true and refrain from conducting an examination of the merits when determining the propriety of class certification. *See Eisen v. Carlisle & Jacquelin,* 417 U.S. 156, 178, 94 S.Ct. 2140, 40 L.Ed.2d 732 (1974); *Baffa v. Donaldson, Lufkin & Jenrette Secs. Corp.,* 222 F.3d 52, 58 (2d Cir.2000). Furthermore, because courts are given discretion to tailor the scope of the class later in the litigation, liberal consideration of the requirements for class certification is permitted in the early stages of litigation. *See Woe ex rel. Woe v. Cuomo,* 729 F.2d 96, 107 (2d Cir.), *cert. denied,* 469 U.S. 936, 105 S.Ct. 339, 83 L.Ed.2d 274 (1984); *Doe I v. Karadzic,* 192 F.R.D. 133, 136 (S.D.N.Y.2000) (citing cases); *see also Weigmann v. Glorious Food, Inc.,* 169 F.R.D. 280, 284 (S.D.N.Y.1996).

B. *Rule 23(a)*

***5** Rule 23(a) provides that:

> One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed.R.Civ.P. 23(a).

1. *Numerosity*

Under Rule 23(a)(1), the class must be "so numerous that joinder of all members is impracticable." Fed.R.Civ.P. 23(a)(1); *see Amchem Prods., Inc. v. Windsor,* 521 U.S. 591, 607 n. 8, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997); *Marisol A. v. Giuliani,* 126 F.3d 372, 376 (2d Cir.1997) (per curiam). In determining whether the numerosity requirement has been satisfied, a court should consider the circumstances surrounding the case to determine if joinder is impracticable, and not just look at the numbers. *See Town of New Castle v. Yonkers Contracting Co.,* 131 F.R.D. 38, 40 (S.D.N.Y.1990); *see also Marisol A.,* 126 F.3d at 376.

Defendants do not challenge class certification on numerosity grounds. Here, where the proposed class members are all past and present full time African-American and Hispanic employees at DPR from May 1998 to the present, it is clear that joinder is impracticable and the numerosity requirement is satisfied.

2. *Commonality*

[1] Under Rule 23(a)(2), there must be questions of law or fact common to the class. Fed.R.Civ.P. 23(a)(2); *see Robinson v. Metro-North Commuter R.R.,* 267 F.3d 147, 155 (2d Cir.2001) (" 'The commonality requirement is met if plaintiffs' grievances share a common question of law or of fact." ' (quoting *Marisol A.,* 126 F.3d at 376)).

At this stage in the proceedings, I do not consider whether statistical evidence offered by the plaintiffs would be admissible at trial or is ultimately persuasive. *See Caridad,* 191 F.3d at 292-93 ("Plaintiffs need not demonstrate at this stage that they will prevail on the merits.... '[S]tatistical dueling' is not relevant to the certification determination."); *Latino Officers Assoc. of N.Y. v. City of New York,* 209 F.R.D. 79, 89 (S.D.N.Y.2002). Rather, I consider only whether the statistical evidence demonstrates a class-wide basis for plaintiffs' claims. *See In re VISA Check/Mastermoney,* 280 F.3d at 135.

Defendants contend that commonality is lacking because the terms and conditions of the proposed class members' employment vary widely according to civil service classification, location, and collective bargaining agreement. Hence, they argue, the claims of putative class members require individualized determinations not susceptible to class-wide relief. Moreover, defendants contend that the statistical evidence submitted by plaintiffs misrepresents the racial disparity in various job categories. For the following reasons, defendants' contentions are rejected.

***6** First, plaintiffs' claims do not depend on the terms of employment of individual class members. The gravamen of plaintiffs' claims is that DPR circumvented the civil

service and collective bargaining processes by engaging in discriminatory promotion and compensation practices. Hence, their allegations of a "dual-track" system of compensation and promotion, segregated work force, hostile environment, and retaliation are common to all members of the proposed class regardless of civil service rank, title, provisional status, or collective bargaining agreement.

Second, plaintiffs' statistical evidence supports their class allegations. The proffered evidence shows racial disparities in promotion, location, and compensation of DPR employees, including racial disparities within different salary ranges. Plaintiffs also show low numbers of African-Americans and Hispanics at the managerial level or higher compared with their proportion of DPR employees as a whole. Hence, plaintiffs' statistics demonstrate common questions of fact because they tend to show that being African-American or Hispanic has an effect on an employee's promotion, compensation, and geographic assignment.

Third, plaintiffs' hostile environment and retaliation allegations sufficiently target centralized personnel to support a finding of commonality. Plaintiffs allege that Stern's racially derogatory remarks have fostered a hostile environment throughout DPR. Plaintiffs also allege that the Advocate's Office and EEO Officer Webster engaged in retaliation and deterrence. Here, "class members need not allege that they all suffered the same injury to show commonality; demonstrating that all class members are *subject* to the same harm will suffice." *Gulino v. Bd. of Educ. of N.Y.,* 201 F.R.D. 326, 331 (S.D.N.Y.2001) (internal quotation omitted) (emphasis in original).

Finally, the fact that the United States has filed suit asserting a pattern and practice of racial discrimination supports the conclusion that common issues of fact and law exist.

3. ***Typicality***

[2] Rule 23(a)(3) requires that "the claims or defenses of the representative parties [be] typical of the claims or defenses of the class." Fed.R.Civ.P. 23(a)(3). *See Amchem,* 521 U.S. at 607 n. 11. Typicality "is satisfied when each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Robinson,* 267 F.3d at 155 (internal quotation omitted). The purpose of Rule 23(a)(3) "is to ensure that 'maintenance of a class action is economical and that the named plaintiff's claims and the class claims are so interrelated [that] the interests of the class members will be fairly and adequately protected in their absence." ' *Cromer Finance Ltd. v. Berger,* 205 F.R.D. 113, 122 (S.D.N.Y.2001) (quoting *Falcon,* 457 U.S. at 158 n. 13); *see Marisol A. v. Giuliani,* 929 F.Supp. 662, 691 (S.D.N.Y.1996) (citing *Baby Neal ex rel. Kanter v. Casey,* 43 F.3d 48, 57 (3d Cir.1994)), *aff'd,* 126 F.3d 372 (2d Cir.1997) (per curiam).

***7** There is no requirement that "the factual background of each named plaintiff's claim be identical to that of all class members." *Caridad,* 191 F.3d at 293; *see Cromer,* 205 F.R.D. at 122. Rather, typicality "requires that the disputed issue of law or fact occupy essentially the same degree of centrality to the named plaintiff's claim as to that of other members of the proposed class." *Caridad,* 191 F.3d at 293 (internal quotations omitted).

In this case, the named plaintiffs assert claims typical of the other members of the proposed class. Class representatives are African-American and Hispanic DPR employees who allege they have suffered discrimination in compensation, promotion, and geographic assignment, are subject to a hostile environment, and are retaliated against for asserting claims of discrimination. They include supervisory, non-supervisory, field office, and administrative employees. While the factual circumstances of their claims may differ, their allegations of disparate treatment are typical of the class.

4. ***Adequacy of Representation***

To determine whether the requirement of adequacy has been satisfied, courts must look to whether "the representative parties will fairly and adequately protect the interests of the class." Fed.R.Civ.P. 23(a)(4). To establish adequacy of representation, plaintiffs must show that (1) plaintiffs' counsel are competent to handle the case and (2) there are no conflicts of interest among class members. *Cromer,* 205 F.R.D. at 123. Defendants do not challenge the competency of counsel or the adequacy of the named plaintiffs.

Accordingly, I hold that plaintiffs have satisfied the requirements of Rule 23(a).

D. ***Rule 23(b)***

I now consider whether the class falls within one of the categories set forth in Rule 23(b). For the reasons set forth below, I hold that plaintiffs' proposed class qualifies under Rule 23(b)(2).

1. ***Rule 23(b)(2)***

[3] Plaintiffs assert that their class should be certified under Rule 23(b)(2), which provides for certification if:

> the party opposing the class has

> acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

Fed.R.Civ.P. 23(b)(2).

Rule 23(b)(2) was intended to assist litigants seeking wide-spread institutional reform through injunctive and/or declaratory relief. *See Marisol A.,* 929 F.Supp. at 692 (citing *Baby Neal,* 43 F.3d at 58-59). In fact, several courts have found that Rule 23(b)(2) will generally be satisfied in cases where injunctive relief is sought and would benefit the entire class. *See e.g., Brown v. Guiliani,* 158 F.R.D. 251, 269 (E.D.N.Y.1994); *Non-Traditional Employment for Women v. Tishman Realty and Const. Corp.,* 1989 WL 101940, at *4 ("Since defendants have allegedly acted 'on grounds generally applicable to the class' and the court finds injunctive relief appropriate should plaintiffs prevail on their claims, plaintiffs have satisfied Rule 23(b)(2)."); *Jane B. v. N.Y.C. Dep't of Soc. Servs.,* 117 F.R.D. 64, 71 (S.D.N.Y.1987). Civil rights actions are "illustrative" of this type of class action. *See* Advisory Committee Note to 1966 Amendment, Fed.R.Civ.P. 23(b)(2).

***8** Where plaintiffs seek monetary damages along with injunctive or declaratory relief, certification is appropriate when the equitable relief sought predominates over the claims for monetary relief. *See Parker v. Time Warner Entm't Co.,* 331 F.3d 13, 20 (2d Cir.2003) (citing *Robinson,* 267 F.3d at 164). To evaluate whether injunctive relief predominates, courts in this circuit conduct an ad-hoc determination. *Robinson,* 267 F.3d at 164. Before certifying the class under 23(b)(2), the court "should, at a minimum, satisfy itself [that] (1) even in the absence of a possible monetary recovery, reasonable plaintiffs would bring the suit to obtain the injunctive or declaratory relief sought; and (2) the injunctive or declaratory relief sought would be both reasonably necessary and appropriate were the plaintiffs to succeed on the merits." *Id.*

The instant case presents precisely the situation contemplated by Rule 23(b)(2). Plaintiffs, if successful on the merits, would be entitled to injunctive relief to ensure that the alleged race and national origin-based discrimination ceases, and this relief would advance the interests of the entire class "even if not every member actually felt the brunt of the actions." *Latino Officers,* 209 F.R.D. at 93. Hence, injunctive relief against defendants would be appropriate should plaintiffs prevail. The fact that plaintiffs also seek monetary damages for the class does not preclude certification under 23(b)(2).

Defendants argue that as to damages, too many individualized determinations are necessary for the class to be certified under Rule 23(b)(2). This is not a concern at the liability stage. Should a need for individualized relief arise at the remedial stage of the proceedings, "it would be appropriate for the Court to afford notice and opt-out rights to absent class members." *Latino Officers,* 209 F.R.D. at 93. *See Robinson,* 267 F.3d at 166. At this stage, however, the rights of absent class members are adequately protected.

Accordingly, certification of the proposed class under Rule 23(b)(2) is appropriate.

CONCLUSION

I hold that plaintiffs satisfy the criteria for class certification under Rule 23 and hence their motion for class certification is granted. Plaintiffs shall submit a proposed order on notice within five business days hereof.

SO ORDERED.

Parallel Citations

92 Fair Empl.Prac.Cas. (BNA) 697