

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ST. CLARE ROSENBERG and WAYNE ANDERSON, individually and on behalf of a class of all other persons similarly situated,)	
)	Case No.: 05 CV 9131 (PAC)
)	ECF Case
Plaintiffs,)	JURY TRIAL DEMANDED
)	
v.)	
)	
IKON OFFICE SOLUTIONS, INC.,)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

I. NATURE OF THE ACTION

1. Plaintiffs St. Clare Rosenberg and Wayne Anderson are former employees of IKON Office Solutions, Inc. (“IKON,” “The Company,” or “Defendant”). They bring this action on behalf of themselves and the class of IKON’s former, current and future African-American employees who worked for the company in New York State and New York City.

2. IKON presents itself as a 21st century business leader engaged in integrating imaging systems and services that help industry manage document workflow and enhance efficiency. Unfortunately, this attractive, self-descriptive veneer hides an uglier reality. When it comes to its African-American employees in New York State and New York City, IKON’s employment practices are reminiscent of the antebellum South and the era of the Night Rider.

3. IKON has denied Plaintiffs and the class of African-American employees

full and equal pay and promotion opportunities. Such employees are forced to work in a hostile environment because of their race. And when an African-American employee complains about IKON's discriminatory policies, the company swiftly retaliates and destroys the complaining employee's job prospects within the company.

4. These are not simply the ambitious allegations of a boilerplate complaint. The EEOC has issued to Plaintiff Rosenberg a Notice of Right to Sue dated July 29, 2005, concluding that the evidence "supports a reasonable cause to believe that the Charging Parties were subjected to discrimination based on race/color, Black, in violation of Title VII." The EEOC determined the following:

The investigation supports Charging Parties' allegations that Respondent discriminated against Charging Parties and other similarly situated Black employees, on the basis of their race and color, Black, and also supports Charging Parties' allegations that Respondent subsequently retaliated against them and other similarly situated individuals for opposing employment discrimination. The investigation also reveals that complaints were made about the hostile environment and discriminatory treatment. Respondent knew or should have known of the above described discrimination and harassment, but failed to appropriately investigate and remedy the discrimination.

Consequently, based on the testimony/interviews with the Charging Parties, other current and former employees/witnesses suffering from similar discrimination and/or retaliation, and the above analysis, [the EEOC] conclude[s] that the evidence obtained during the Commission's investigation supports a reasonable cause to believe that the Charging Parties were subjected to discrimination based on race/color, Black, in violation of Title VII.

5. Plaintiffs Rosenberg and Anderson file this Class Action Complaint to redress the racial discrimination permeating IKON supported by the EEOC's investigation and conclusion.

6. The Class Representatives seek to represent African-American employees

of IKON who have been subjected to one or more aspects of the systemic race discrimination described in this Complaint, including, but not limited to: (a) discriminatory policies, practices and/or procedures in selection, promotion and advancement; (b) disparate pay; (c) a hostile work environment and race-based harassment; and (d) retaliation in the workplace. The systemic race discrimination described in this Complaint has been, and is, continuing in nature.

7. The Class Representatives seek on behalf of themselves and the class declaratory and injunctive relief, including, but not limited to, affirmative restructuring of IKON's selection and compensation procedures, training and other terms and conditions of employment; back pay; front pay; compensatory and nominal damages; and attorneys' fees, costs and expenses to redress IKON's discriminatory and retaliatory employment policies, practices and/or procedures.

II. PROCEDURAL HISTORY

8. On December 27, 2004, Mr. Rosenberg filed an individual and class EEO Charge of Discrimination, alleging race-based and color-based discrimination and retaliation.

9. On July 20, 2005, the Equal Employment Opportunity Commission ("EEOC") issued a determination as to the merits of Mr. Rosenberg's charge. The EEOC found reasonable cause to believe that Mr. Rosenberg was subjected to discrimination based on race and color in violation of Title VII.

10. On July 29, 2005, the EEOC issued Mr. Rosenberg a Notice of Right to Sue ("Right to Sue") which stated that any lawsuit "must be filed WITHIN 90 DAYS of your receipt of this Notice..."

11. Plaintiff Rosenberg received the Right to Sue on August 4, 2005.

III. PARTIES

A. The Plaintiffs

12. Plaintiff St. Clare Rosenberg is a resident of Brooklyn. From August 2002 to October 4, 2004, Mr. Rosenberg was employed as a Customer Sales Representative (“CSR”) for IKON at Defendant’s facility located at 950 Third Avenue, New York, New York. IKON constructively discharged Mr. Rosenberg who resigned as of October 4, 2004.

13. Plaintiff Wayne Anderson is a resident of the Bronx. Beginning approximately January 5, 2004, Mr. Anderson was employed as a Customer Service Representative (“CSR”) for IKON at Defendant’s facility located at 810 Seventh Avenue, New York, New York, 10019. (Mr. Anderson previously worked for IKON in Norfolk, Virginia from November 2002). In approximately August 2005, Mr. Anderson left IKON because of the company’s racially discriminatory pay and promotion policies and its denial of equal advancement.

B. The Defendant

14. IKON is a multinational corporation with its corporate headquarters located in Malverne, Pennsylvania. IKON conducts business throughout New York State, including the County of New York.

15. IKON integrates imaging systems and services that help business manage document workflow and increase efficiency. IKON is an independent distributor of copier and printer technologies and service support. IKON also provides a range of document management services, including outsourcing and professional services, on-site

copy, and mailroom management, fleet management, off-site digital printing solutions, and customized workflow, and imaging application development.

16. IKON employs approximately 30,250 individuals in 600 locations throughout the United States. In Fiscal Year 2003, IKON earned revenues of \$4.7 billion.

17. IKON possesses either actual or constructive control, oversight, and direction over the operation of its individual facilities in New York State, including their employment practices.

IV. JURISDICTION AND VENUE

18. Jurisdiction over Defendant IKON is properly vested under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(e)-5(f), *et seq.* and 23 U.S.C. § 1981. IKON regularly does business in New York and has numerous offices throughout New York.

19. Venue is proper in this Court because IKON transacts business in the State and City of New York and the events giving rise to this claim occurred in the State of New York. Class Representatives Rosenberg and Anderson both reside in New York and, absent the violations of federal and state law complained of herein, would have continued to work for IKON in New York. Most of the records pertaining to the Class Representatives' employment are or were maintained in New York.

V. ALLEGATIONS OF THE CLASS REPRESENTATIVES

(a) Mr. Rosenberg

20. Plaintiff St. Clare Rosenberg ("Mr. Rosenberg") is an African-American resident of Brooklyn, New York.

21. Mr. Rosenberg was hired by IKON in approximately August of 2002.

Hostile Work Environment

22. During Mr. Rosenberg's employment at IKON, he was subjected to a gauntlet of racial discrimination and hostile treatment, encompassing denial of equal pay and promotion, harassment and a hostile work environment.

23. For example, Mr. Rosenberg observed pictures of African-Americans with the white faces of account managers pasted on them. Mr. Rosenberg complained to his supervisor, Michael Caproni ("Mr. Caproni"), that the pictures were offensive to African-American employees, but the situation continued.

24. Another incident of racism at IKON occurred when June Caproni ("Ms. Caproni") said that Mr. Rosenberg looked liked Hitler. Another IKON employee, Monifa Blount, found a picture of Mr. Rosenberg with "Hitler" written across it. It was posted in plain view of other employees and the word "Hitler" was written in Ms. Caproni's writing. Mr. Rosenberg did not complain about the incident because his supervisor had made it clear that nothing would be done to redress racial discrimination.

Denial of Pay and Promotion

25. White employees were given inside information on promotional opportunities whereas African-American employees, including Mr. Rosenberg, were simply told to work hard and they would "eventually" get promoted.

26. Mr. Rosenberg applied for every Account Manager position that opened during his time at IKON. Mr. Rosenberg was the most qualified applicant as to the last four positions for which he applied. Instead, white employees from outside the company were hired to fill those positions.

27. White employees were given the best clients whereas Mr. Rosenberg was given the worst.

28. Mr. Rosenberg asked to enroll in a training class for Account Managers. Candidates for the class were required to study materials to qualify for enrollment. While Mr. Rosenberg was told to study his materials on his lunch hour, a white CSR, Brian Marsh, was given study time during work, went to the class, and was subsequently made a Manager.

29. Upon hearing of Mr. Rosenberg's ambition to become an Account Manager, Supervisor Caproni discouraged Mr. Rosenberg by claiming that some Account Managers were forced to leave the company because it was difficult work. Mr. Caproni added that because he (Caproni) was "not a good Account Manager," he was hesitant to let Mr. Rosenberg move up or give him the recommendations needed to do so.

Retaliation

30. After Mr. Rosenberg asked for a promotion to Account Manager, IKON retaliated against him. On occasion when Mr. Rosenberg was tardy for work, he was singled out for harsh discipline in front of the other employees or sent home from work. When a white employee, Thomas Dasille was habitually late, he was either not disciplined or spoken to in a closed office.

31. While Mr. Rosenberg was subjected to discipline for even the most trivial matters, white employees could commit major infractions with few repercussions. For example, Tim Franklin, a white employee, left a company vehicle unattended and running, and as a result the vehicle was stolen. Mr. Franklin received only a written warning. On another occasion, a white account manager, Mark Ardere, painted a

Customer Service Manager's office pink and was not disciplined.

(b) **Mr. Anderson**

32. Plaintiff Anderson was hired in November, 2002 as a driver/CSR in the company's Norfolk, VA shop.

Denial of Equal Pay and Promotion

33. In December, 2003 Mr. Anderson met with IKON's Sales Manager, at which time Mr. Anderson expressed an interest in becoming an Account Manager in New York. Mr. Anderson was advised that he would need more training in New York as a CSR in order to qualify for the Account Manager position. Mr. Anderson thereafter moved to New York and continued working for IKON.

34. During the following months, Mr. Anderson performed ably as a CSR, his work performance was excellent and he received superior reviews.

35. Mr. Anderson subsequently inquired about the possibility of advancing to become an Account Manager. Defendants' New York manager informed Mr. Anderson that if an Account Manager position became open, IKON would consider Mr. Anderson. When such Account Manager positions did become available on at least three different occasions from 2004 through 2005, however, IKON didn't consider Mr. Anderson at all. Instead, Defendant IKON awarded the Account Manager job to white IKON employees or white outsiders.

36. To add insult to injury, IKON awarded open Account Manager jobs to white employees who had less experience and qualifications than Mr. Anderson, and/or without requiring them to undergo the pre-qualification formalities required for the position.

Hostile Work Environment & Retaliation

37. In Virginia, Mr. Anderson was subjected to the indignity of being called “boy” by his then Caucasian manager, Randy Gay. Despite Mr. Anderson’s complaint to more senior management, upon information and belief, IKON did not take any disciplinary action against Mr. Gay.

38. After working in New York and witnessing the promotions of whites to Account Manager positions, Mr. Anderson complained in writing to his white manager, Kevin Melville. Rather than acknowledge the Company’s discriminatory actions, Mr. Melville threatened Mr. Anderson by preventing him from leaving his office, and telling Mr. Anderson that he (Melville) did not need Anderson’s approval to make hiring decisions. Realizing that he had no future in this racially-hostile environment, Mr. Anderson left the company, in effect being constructively discharged.

VI. CLASS ACTION ALLEGATIONS

A. Class Definition

39. Under Rule 23 of the Federal Rules of Civil Procedure, Class Representative Rosenberg and Anderson seek to maintain claims on behalf of themselves and on behalf of a class of IKON’s current, former and future African-American employees who worked for the company in New York City and New York State. Class Representatives Rosenberg and Anderson are members of the proposed class.

40. The class consists of all African-Americans who are, or have been, employed by IKON in the State of New York at any time during the applicable liability period. Upon information and belief, there are hundreds of members of the proposed class.

B. Numerosity and Impracticability of Joinder

41. The persons whom Class Representatives Rosenberg and Anderson seek to represent are too numerous to make joinder practicable. The proposed class consists of over one hundred former, current, and future African-American applicants and employees who have been, are, or will be employed by IKON. IKON's pattern and practice of racial discrimination also makes joinder impracticable by discouraging African-Americans from applying or pursuing employment opportunities, thereby making it impractical and inefficient to identify many members of the class prior to determination of the merits of IKON's class-wide liability.

C. Common Questions of Law and Fact

42. The discriminatory treatment to which Class Representatives Rosenberg and Anderson have been subjected is manifested by such policies and/or patterns or practices as denying African-American employees desirable promotional opportunities, job assignments, training, management positions, compensation, bonuses, and other benefits and conditions of employment on the same terms applied to white employees.

43. In particular, IKON deters African-American employees from seeking promotions, management positions, and desirable job assignments; fails to select African-Americans for desirable job assignments and positions; and fails to enforce policies prohibiting racial discrimination and retaliation.

44. As a result of the illegal policy and/or patterns or practices described herein, African-American employees hold a disproportionate share of the lowest level positions, are denied equal terms and conditions of employment and have not been allowed to advance to better positions.

45. IKON has created and maintained a system-wide employment policy of race-based disparate treatment, which limits the employment opportunities for African-Americans in various aspects of IKON's employment operation including, but not limited to, job selections. IKON's selection practices and procedures have had a disparate impact on the Plaintiffs and the class they seek to represent.

46. This action in part seeks to enjoin IKON from pursuing specific illegal policies and/or practices that have injured and continue to injure Plaintiffs and other African-American employees and applicants for employment with IKON in all aspects of IKON's employment operations.

47. IKON's illegal policy is premised on an invidious and racially discriminatory animus directed against African-American employees. It is specifically calculated to deny African-American employees equal treatment and opportunities guaranteed by 42 U.S.C. §2000 *et seq* and 42 U.S.C. § 1981, New York State Executive Law, § 296, subd. 1(a), and N.Y.C. Administrative Code, § 8-107, subd. 1(a).

D. Typicality of Relief Sought

48. The relief necessary to remedy the claims of both Class Representatives is the same as that necessary for the class. Class Representatives Rosenberg and Anderson seek the following relief for their individual claims and those of the class: 1) a declaratory judgment that IKON has engaged in systemic racial discrimination in limiting the employment opportunities of African-Americans to lower classifications and compensation; 2) a declaratory judgment that IKON has engaged in retaliation against African-Americans and non-African-American employees who speak out in opposition against race discrimination at IKON; 3) a permanent injunction against such continuing

discrimination as described in (1) and (2) above; 4) restructuring of IKON's selection and compensation procedures so that African-Americans are able to learn about and fairly compete in the future for better classifications, compensation levels, and terms and conditions of employment traditionally enjoyed by white employees; 5) restructuring of IKON's workforce so that African-Americans are assigned to the classifications, locations and compensation levels they would have now held in the absence of IKON's past racial discrimination; and 6) damages, back-pay, and other equitable remedies necessary to make Class Representatives Rosenberg and Anderson and the class they seek to represent whole from IKON's past discrimination and retaliation.

E. Adequacy of Representation

49. The interests of Class Representative Rosenberg and Anderson are coextensive with those of the class in that each seeks to remedy IKON's discriminatory employment practices so that (1) racially hostile conditions of work will be eradicated and African-Americans will no longer be consigned to lower paying positions and prevented from obtaining promotional opportunities, and (2) retaliation against African-Americans employees will be eradicated. Class Representatives Rosenberg and Anderson are able and willing to represent the class fairly and vigorously, as they pursue their common goals through this action. Plaintiffs' counsel are also qualified, experienced, and able to conduct the litigation and to meet the time and fiscal demands required to litigate an employment discrimination class action of this size and complexity. The combined interest, experience and resources of Class Representatives Rosenberg and Anderson and their counsel to litigate competently the individual and class claims of race-based employment discrimination at issue, satisfy the adequacy of

representation requirement of Federal Rule of Civil Procedure 23(a)(4).

F. Efficiency of Class Prosecution of Common Claims

50. Certification of a class of African-Americans similarly situated to Class Representatives Rosenberg and Anderson is the most efficient and economical means of resolving the questions of law and fact common to the individual claims of the Class Representatives and the class.

51. The individual claims of Class Representatives Rosenberg and Anderson require resolution of the common questions of (1) whether IKON has engaged in a systemic pattern of racial discrimination against African-Americans; and (2) whether IKON has engaged in a pattern of retaliation against African-American employees who speak out in opposition of race discrimination.

52. Class Representatives Rosenberg and Anderson seek remedies to undo the adverse effects of such discrimination in their own lives, career and working conditions and to prevent continued racial discrimination and retaliation in the future.

53. Class Representatives Rosenberg and Anderson have standing to seek such relief (1) in part because of the adverse effect that racial discrimination against African-Americans has had on their own interests in working and living in conditions free from the pernicious effects of racial bias and hostility, and (2) in part because of the adverse effect that retaliation against African-Americans has had on their own interest in working and living in conditions free from the pernicious effects of retaliation. In order to gain such relief for themselves, as well as for the class members, Class Representatives Rosenberg and Anderson must first establish the existence of systemic racial discrimination and retaliation as the premise of the relief they seek. Without class

certification, the same evidence and issues would be subject to repeated relitigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations.

54. Certification of the class of African-Americans affected by the common question of law and fact is the most efficient and judicious means of presenting the evidence and argument necessary to resolve such questions for the Class Representatives, the class and the Defendant

55. The individual and class claims of both Class Representatives are premised upon the traditional bifurcated method of proof and trial for disparate impact and systemic disparate treatment claims of the type at issue in this Class Complaint. Such a bifurcated method of proof and trial is the most efficient method of resolving such common issues.

G. Certification is Proper under Fed. R. Civ. P. 23(b)(2)

56. IKON has acted on grounds generally applicable to the class by adopting and following systemic practices and procedures which are racially discriminatory.

57. IKON's racial discrimination is its standard operating procedure rather than a sporadic occurrence. IKON has refused to act on grounds generally applicable to the class by refusing to adopt or follow selection and compensation procedures which do not have disparate impact or otherwise do not systemically discriminate against African-Americans and by refusing to establish conditions of work that are not hostile to African-American employees who oppose the racial discrimination at IKON

H. Certification is Proper under Fed. R. Civ. P. 23(b)(3)

58. The common issues of fact and law affecting the claims of Mr. Rosenberg and Mr. Anderson and proposed class members predominate over any issues affecting only individual claims. These issues include whether IKON has engaged in racial discrimination against African-Americans employed by Defendant in New York State by denying such employees equal pay, promotion and advancement, and whether IKON has retaliated against these employees and tolerated an atmosphere of racist harassment against African-American employees.

59. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class Representatives and members of the proposed class.

60. Because of the prohibitive cost of proving IKON's pattern and practice of discrimination, it is impracticable for the Class Representatives and the class to control the prosecution of their claims individually.

COUNT I

**VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
42 U.S.C. §§ 2000(e), *et seq.*, AS AMENDED
RACE DISCRIMINATION – PAY AND PROMOTION
(African-American Class Representatives and Class against Defendant)**

61. Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

62. Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

63. This Count is brought on behalf of both Class Representatives and the class.

64. Class Representatives Rosenberg and Anderson and the class they seek to represent have been subject to systemic racial discrimination including, but not limited to, a pattern and practice of intentional discrimination and a host of practices having unlawful disparate impact on their employment opportunities. The systemic means of accomplishing such racial discrimination include, but are not limited to, IKON's selection procedures, and unequal terms and conditions of employment.

65. IKON's selection and compensation procedures incorporate the following racially discriminatory practices: 1) reliance upon subjective procedures and criteria which permit and encourage the incorporation of racial stereotypes and bias of IKON's predominantly white managerial staff; 2) refusal to establish or follow policies, procedures, or criteria that reduce or eliminate disparate impact and/or intentional racial bias or stereotypes in IKON's decision making process; 3) pre-selection of whites before vacancies or opportunities become known; and 4) discouragement of applications and expressions of interest by African-Americans through a reputation for racial bias, racially hostile conditions of work, and unequal terms and conditions of employment in such areas as work hours and position assignments.

66. IKON's selection procedures have a disparate impact on the African-American Plaintiffs and the class they represent. Such procedures are not valid, job related or justified by business necessity. There are objective and structured selection and compensation procedures available to IKON which have less disparate impact on African-Americans and equal or greater validity and job relatedness, but IKON has

refused to consider or to use such procedures.

67. IKON's selection procedures have adversely affected Class Representatives Rosenberg and Anderson by excluding African-Americans from traditionally white positions, and denying Plaintiffs equal pay with white employees.

68. IKON has continuously engaged in, condoned and ratified discrimination which constitutes a continuing violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e, *et seq* , as amended.

69. Plaintiffs and the class have no plain, adequate, or complete remedy of law to redress the wrongs alleged herein, and this suit for back-pay, an injunction for other equitable relief, and a declaratory judgment is their only means of securing adequate equitable relief. Both Class Representatives are now suffering and will continue to suffer irreparable injury from IKON's unlawful policies and practices as set forth herein unless enjoined by this Court.

70. By reason of IKON's discriminatory employment practices, Plaintiffs and the members of the proposed class have experienced economic harm, including loss of compensation, back and front pay, other employment benefits, and emotional harm, anguish and humiliation.

71. By reason of the discrimination suffered at IKON, Class Representatives and the members of the proposed class are entitled to all legal and equitable remedies available under Title VII.

72. Attorneys' fees should be awarded under 42 U.S.C. §2000e-5(k).

COUNT II

**VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
42 U.S.C. §§ 2000(e), *et seq.*, AS AMENDED
RACIALLY HOSTILE WORK ENVIRONMENT
(African-American Class Representatives and Class against Defendant)**

73. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

74. This Count is brought on behalf of both Class Representatives and the class.

75. Defendants have subjected the Class Representatives and the class to a racially hostile work environment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000(e), et seq.

76. Defendants have denied Class Representatives and members of the class their personal right to work in an environment free of racial discrimination.

77. Defendants' racially discriminatory practices have been, and continue to be, sufficiently severe or pervasive to create an environment that is both subjectively and objectively hostile and abusive, and the Defendants have tolerated, condoned, ratified and/or engaged in the hostile work environment, or, in the alternative, knew, or should have known, of its existence and failed to take remedial action.

78. By reason of the continuous nature of Defendants' discriminatory conduct persistent throughout the employment of Class Representatives and the members of the class, Class Representatives and the members of the class are entitled to application of the continuing violations doctrine to all violations herein.

79. Defendants' conduct in violation of Title VII has injured and damaged the

Class Representatives and the class.

80. The Class Representatives and the members of the class have suffered and continue to suffer harm, including, but not limited to, a working environment heavily charged with racial discrimination, resulting largely from the rampant racial harassment and the use of racial slurs, epithets and stereotypes, displaying of racist photographs, and management's awareness of, participation in and/or lack of response to the hostile working conditions.

81. By reason of Defendants' conduct as alleged herein, Class Representatives and the class are entitled to all legal and equitable remedies available for violations of Title VII, including an award for punitive damages.

82. Attorneys' fees should be awarded under 42 U.S.C. §2000e-5(k).

COUNT III
VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
42 U.S.C. § 2000e(k), AS AMENDED
RETALIATION
(African-American Class Representatives and Class against Defendant)

83. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

84. This Count is brought on behalf of both Class Representatives and the class.

85. IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class because they insisted upon a work environment free of race discrimination and/or because they complained about race discrimination.

86. IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class by subjecting them to retaliatory employment actions, including but not limited to, denying them promotions for which they were qualified and subjecting them to disparate terms and conditions of employment, race discrimination, a hostile work environment and/or other forms of discrimination in violation of Title VII.

87. IKON's actions were intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of causing harm to Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class

88. IKON has continuously engaged in, condoned and ratified retaliation which construes a continuing violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., as amended.

89. As a direct and proximate result of IKON's aforementioned conduct, Class Representatives Rosenberg and Anderson and the members of the proposed class were damaged and suffered economic losses, mental and emotional harm, anguish and humiliation.

90. By reason of the retaliation suffered at IKON, Class Representatives Rosenberg and Anderson and the members of the proposed class are entitled to all legal and equitable remedies available under Title VII.

91. Attorneys' fees should be awarded under 42 U.S.C. §2000e-5(k).

COUNT IV

**VIOLATIONS OF THE CIVIL RIGHTS ACT OF 1866,
42 U.S.C. § 1981, AS AMENDED
PAY AND PROMOTION
(African-American Class Representatives and Class against Defendant)**

92. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

93. This Count is brought on behalf of both Class Representatives and the class.

94. Defendant has denied Class Representatives and members of the class the same right to make and enforce contracts as enjoyed by white citizens employed by IKON, including rights involving the making, performance, modification and termination of contracts with Defendant, as well as the enjoyment of all benefits, privileges, terms and conditions of that relationship, in violation of the Civil Rights Act of 1866, 42 U.S.C § 1981, as amended.

95. In the employment practices described above, Defendant intentionally engaged in discriminatory practices with malice or with reckless indifference to the federally protected rights of Class Representatives Rosenberg and Anderson and the class, entitling Class Representatives Rosenberg and Anderson and the class to punitive damages.

96. By reason of the continuous nature of Defendant's discriminatory conduct persistent throughout the employment of Class Representatives and members of the class, Class Representative Rosenberg, Class Representative Anderson and the class are entitled

to application of the continuing violations doctrine to all violations alleged herein.

97. Defendant's conduct in violation of § 1981 has injured and damaged Class Representatives Rosenberg and Anderson and the class.

98. Class Representatives Rosenberg and Anderson and the class have suffered and continue to suffer harm, including, but not limited to, lost earnings, lost benefits and other financial loss, as well as humiliation, embarrassment, emotional and physical distress and mental anguish.

99. By reason of Defendant's discrimination, Class Representatives Rosenberg and Anderson and the class are entitled to all legal and equitable remedies available for violations of § 1981, including an award of punitive damages.

100. Attorneys' fees should be awarded under § 1981, *et seq.*

COUNT V

VIOLATIONS OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981, AS AMENDED RACIALLY HOSTILE WORK ENVIRONMENT (African-American Class Representatives and Class against Defendant

101. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

102. This Count is brought on behalf of both Class Representatives and the class.

103. Defendant has subjected the Class Representatives and the class to a racially hostile work environment in violation of § 1981.

104. Defendant has denied Class Representatives and members of the class their personal right to work in an environment free of racial discrimination

105. Defendant's racially discriminatory practices have been, and continue to be, sufficiently severe or pervasive to create an environment that is both subjectively and objectively hostile and abusive, and the Defendant has tolerated, condoned, ratified and/or engaged in the hostile work environment, or, in the alternative, knew, or should have known, of its existence and failed to take remedial action.

106. By reason of the continuous nature of Defendant's discriminatory conduct persistent throughout the employment of Class Representatives and the members of the class, Class Representatives and the members of the class are entitled to application of the continuing violations doctrine to all violations herein.

107. Defendant's conduct in violation of § 1981 has injured and damaged the Class Representatives and the class.

108. Class Representatives and the members of the class have suffered and continue to suffer harm, including, but not limited to, a working environment heavily charged with racial discrimination, resulting largely from the rampant racial harassment and the use of racial slurs, epithets and stereotypes, displaying of racist photographs, and management's awareness of, participation in and/or lack of response to the hostile working conditions.

109. By reason of Defendant's conduct as alleged herein, Class Representatives and the class are entitled to all legal and equitable remedies available for violations of § 1981, including an award for punitive damages.

110. Attorneys' fees should be awarded under 42 U.S.C. §2000e-5(k).

COUNT VI

**VIOLATIONS OF THE CIVIL RIGHTS ACT OF 1866,
42 U.S.C. § 1981, AS AMENDED
RETALIATION
(African-American Class Representatives and Class against Defendant)**

111. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

112. This Count is brought on behalf of both Class Representatives and the class.

113. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class because they insisted upon a work environment free of race discrimination and/or because they complained about race discrimination.

114. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class by subjecting them to retaliatory employment actions, including but not limited to, denying them promotions for which they were qualified and subjecting them to disparate terms and conditions of employment, race discrimination, a hostile work environment and/or other forms of discrimination in violation of §1981.

115. Defendant IKON's actions were intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of causing harm to Class Representative Rosenberg and the members of the proposed class.

116. Defendant IKON has continuously engaged in, condoned and ratified retaliation which construes a continuing violation of §1981.

117. As a direct and proximate result of IKON's aforementioned conduct, Class Representatives Rosenberg and Anderson and the members of the proposed class were damaged and suffered economic losses, mental and emotional harm, anguish and humiliation.

118. By reason of the retaliation suffered at IKON, Class Representatives Rosenberg and Anderson and the members of the proposed class are entitled to all legal and equitable remedies available under §1981.

119. Attorneys' fees should be awarded under 42 U.S.C. §2000e-5(k).

COUNT VII

**VIOLATIONS OF NEW YORK STATE
EXECUTIVE LAW § 296, subd. 1(a)
RACE DISCRIMINATION – PAY AND PROMOTION
(African-American Class Representatives and the Class against Defendant)**

120. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein

121. This Count is brought on behalf of both Class Representatives and the class.

122. Class Representatives Rosenberg and Anderson and the class they seek to represent have been subject to systemic racial discrimination including, but not limited to, a pattern and practice of intentional discrimination and a host of practices having unlawful disparate impact on their employment opportunities. The systemic means of accomplishing such racial discrimination include, but are not limited to, IKON's selection procedures, and unequal terms and conditions of employment. By these actions, Defendant IKON has discriminated against the Representative Plaintiffs and the

Class in the terms, conditions or privileges of employment, thereby violating New York Executive Law § 296, subd. 1(a).

123. Defendant IKON's selection and compensation procedures incorporate the following racially discriminatory practices: 1) reliance upon subjective procedures and criteria which permit and encourage the incorporation of racial stereotypes and bias of IKON's predominantly white managerial staff; 2) refusal to establish or follow policies, procedures, or criteria that reduce or eliminate disparate impact and/or intentional racial bias or stereotypes in IKON's decision making process; 3) pre-selection of whites before vacancies or opportunities become known; and 4) discouragement of applications and expressions of interest by African-Americans through a reputation for racial bias, racially hostile conditions of work, and unequal terms and conditions of employment in such areas as work hours and position assignments.

124. Defendant IKON's selection procedures have a disparate impact on the African-American Plaintiffs and the class they represent. Such procedures are not valid, job related or justified by business necessity. There are objective and structured selection and compensation procedures available to IKON which have less disparate impact on African-Americans and equal or greater validity and job relatedness, but IKON has refused to consider or to use such procedures.

125. Defendant IKON's selection procedures have adversely affected Class Representatives Rosenberg and Anderson by excluding African-Americans from traditionally white positions, and denying Mr. Rosenberg and Mr. Anderson equal pay with white employees.

126. Defendant IKON has continuously engaged in, condoned and ratified

discrimination which constitutes a continuing violation of New York Executive Law § 296, subd. 1(a).

127. Class Representatives Rosenberg and Anderson have no plain, adequate, or complete remedy of law to redress the wrongs alleged herein, and this suit for back-pay, an injunction other equitable relief, and a declaratory judgment is their only means of securing adequate equitable relief. Both Class Representatives are now suffering and will continue to suffer irreparable injury from IKON's unlawful policies and practices as set forth herein unless enjoined by this Court.

128. By reason of IKON's discriminatory employment practices, Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class have experienced economic harm, including loss of compensation, back and front pay, other employment benefits, and emotional harm, anguish and humiliation.

129. By reason of the discrimination suffered at IKON, Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class are entitled to all legal and equitable remedies available under New York Executive Law, including attorneys' fees.

COUNT VIII

VIOLATIONS OF NEW YORK EXECUTIVE LAW § 296, subd. 1(a) RACIALLY HOSTILE WORK ENVIRONMENT (African-American Class Representatives and the Class against Defendants)

130. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

131. This Count is brought on behalf of both Class Representatives and the

class.

132. Defendant has subjected the Class Representatives and the class to a racially hostile work environment in violation of New York Executive Law § 296, subd. 1(a).

133. Defendants have denied Class Representatives and members of the class their personal right to work in an environment free of racial discrimination.

134. Defendant's racially discriminatory practices have been, and continue to be, sufficiently severe or pervasive to create an environment that is both subjectively and objectively hostile and abusive, and the Defendant has tolerated, condoned, ratified and/or engaged in the hostile work environment, or, in the alternative, knew, or should have known, of its existence and failed to take remedial action.

135. By reason of the continuous nature of Defendant's discriminatory conduct persistent throughout the employment of Class Representatives and the members of the class, Class Representatives and the members of the class are entitled to application of the continuing violations doctrine to all violations herein.

136. Defendant's conduct in violation of New York Executive Law § 296, subd. 1(a) has injured and damaged the Class Representatives and the class.

137. Class Representatives and the members of the class have suffered and continue to suffer harm, including, but not limited to, a working environment heavily charged with racial discrimination, resulting largely from the rampant racial harassment and the use of racial slurs, epithets and stereotypes, displaying of racist photographs, and management's awareness of, participation in and/or lack of response to the hostile working conditions.

138. By reason of Defendant's conduct as alleged herein, Class Representatives and the class are entitled to all legal and equitable remedies available for violations of New York Executive Law § 296, subd. 1(a), including an award for punitive damages and attorneys' fees

COUNT IX

VIOLATIONS OF NEW YORK EXECUTIVE LAW § 296, subd. 1(a) RETALIATION (African-American Class Representatives against Defendant)

139. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

140. This Count is brought on behalf of both Class Representatives and the class.

141. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class because they insisted upon a work environment free of race discrimination and/or because they complained about race discrimination.

142. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class by subjecting them to retaliatory employment actions, including but not limited to, denying them promotions for which they were qualified and subjecting them to disparate terms and conditions of employment, race discrimination, a hostile work environment and/or other forms of discrimination in violation of New York Executive Law.

143. Defendant IKON's actions were intentional, deliberate, willful, malicious,

reckless and conducted in callous disregard of causing harm to Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class.

144. Defendant IKON has continuously engaged in, condoned and ratified retaliation which construes a continuing violation of New York Executive Law § 296, subd. 1(a).

145. As a direct and proximate result of IKON's aforementioned conduct, Class Representatives Rosenberg and Anderson and the members of the proposed class were damaged and suffered economic losses, mental and emotional harm, anguish and humiliation.

146. By reason of the retaliation suffered at IKON, Class Representatives Rosenberg and Anderson and the members of the proposed class are entitled to all legal and equitable remedies available under New York Executive Law, including attorneys' fees.

COUNT X

**VIOLATIONS OF N.Y.C. ADMINISTRATIVE CODE § 8-107, subd. 1(a)
PAY AND PROMOTION
(Asserted on behalf of IKON's African-American employees
who worked in Defendant's New York City Facilities)**

147. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

148. This Count is brought on behalf of both Class Representatives and the class of Defendant IKON's past, current and future African-American employees employed by IKON in the city of New York.

149. Class Representatives Rosenberg and Anderson and the class they seek to

represent have been subject to systemic racial discrimination including, but not limited to, a pattern and practice of intentional discrimination and a host of practices having unlawful disparate impact on their employment opportunities. The systemic means of accomplishing such racial discrimination include, but are not limited to, IKON's selection procedures, and unequal terms and conditions of employment. By these actions, Defendant IKON has discriminated against the Representative Plaintiffs and the Class in the terms, conditions or privileges of employment, thereby violating New York City Administrative Code § 8-107, subd. 1(a).

150. Defendant IKON's selection and compensation procedures incorporate the following racially discriminatory practices: 1) reliance upon subjective procedures and criteria which permit and encourage the incorporation of racial stereotypes and bias of IKON's predominantly white managerial staff; 2) refusal to establish or follow policies, procedures, or criteria that reduce or eliminate disparate impact and/or intentional racial bias or stereotypes in IKON's decision making process; 3) pre-selection of whites before vacancies or opportunities become known; and 4) discouragement of applications and expressions of interest by African-Americans through a reputation for racial bias, racially hostile conditions of work, and unequal terms and conditions of employment in such areas as work hours and position assignments.

151. Defendant IKON's selection procedures have a disparate impact on the African-American Plaintiffs and the class they represent. Such procedures are not valid, job related or justified by business necessity. There are objective and structured selection and compensation procedures available to IKON which have less disparate impact on African-Americans and equal or greater validity and job relatedness, but IKON has

refused to consider or to use such procedures.

152. Defendant IKON's selection procedures have adversely affected Class Representatives Rosenberg and Anderson by excluding African-Americans from traditionally white positions, and denying Mr. Rosenberg and Mr. Anderson equal pay with white employees.

153. Defendant IKON has continuously engaged in, condoned and ratified discrimination which constitutes a continuing violation of New York City Administrative Code § 8-107 subd. 1(a). IKON's discriminatory conduct has been deliberate, wanton and willful. The Representative Plaintiffs and the class of IKON's New York City employees are therefore entitled to recover compensatory and punitive damages under N.Y.C. Administrative Code § 8-502, subd. 1(a).

154. Class Representatives Rosenberg and Anderson have no plain, adequate, or complete remedy of law to redress the wrongs alleged herein, and this suit for back-pay, an injunction other equitable relief, and a declaratory judgment is their only means of securing adequate equitable relief. Both Class Representatives are now suffering and will continue to suffer irreparable injury from IKON's unlawful policies and practices as set forth herein unless enjoined by this Court.

155. By reason of IKON's discriminatory employment practices, Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class have experienced economic harm, including loss of compensation, back and front pay, other employment benefits, and emotional harm, anguish and humiliation.

156. By reason of the discrimination suffered at IKON, Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class are

entitled to all legal and equitable remedies available under New York City Administrative Code § 8-107, subd. 1(a), including attorneys' fees

COUNT XI

**VIOLATIONS OF NEW YORK CITY
ADMINISTRATIVE CODE § 8-107, subd. 1(a)
RACIALLY HOSTILE WORK ENVIRONMENT
(Asserted on behalf of IKON's African-American employees
who worked in Defendant's New York City Facilities)**

157. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

158. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

159. This Count is brought on behalf of both Class Representatives and the class.

160. Defendant has subjected the Class Representatives and the class to a racially hostile work environment in violation of New York City Administrative Code § 8-107, subd. 1(a)

161. Defendant has denied Class Representatives and members of the class their personal right to work in an environment free of racial discrimination.

162. Defendant's racially discriminatory practices have been, and continue to be, sufficiently severe or pervasive to create an environment that is both subjectively and objectively hostile and abusive, and the Defendant has tolerated, condoned, ratified and/or engaged in the hostile work environment, or, in the alternative, knew, or should

have known, of its existence and failed to take remedial action.

163. By reason of the continuous nature of Defendant's discriminatory conduct persistent throughout the employment of Class Representatives and the members of the class, Class Representatives and the members of the class are entitled to application of the continuing violations doctrine to all violations herein.

164. Defendant's conduct in violation of New York City Administrative Code § 8-107, subd. 1(a) has injured and damaged the Class Representatives and the class.

165. Class Representatives and the members of the class have suffered and continue to suffer harm, including, but not limited to, a working environment heavily charged with racial discrimination, resulting largely from the rampant racial harassment and the use of racial slurs, epithets and stereotypes, displaying of racist photographs, and management's awareness of, participation in and/or lack of response to the hostile working conditions.

166. By reason of Defendant's conduct as alleged herein, Class Representatives and the class are entitled to all legal and equitable remedies available for violations of New York City Administrative Code § 8-107, subd. 1(a), including an award for punitive damages and attorneys' fees.

COUNT XII

VIOLATIONS OF NEW YORK CITY ADMINISTRATIVE CODE § 8-107, subd. 1(a) RETALIATION

**(Asserted on behalf of IKON's African-American employees
who worked in Defendant's New York City Facilities)**

167. Plaintiff-Class Representatives Rosenberg and Anderson re-allege and incorporate by reference each and every allegation contained in each and every

aforementioned paragraph as though fully set forth herein.

168. This Count is brought on behalf of both Class Representatives and the class.

169. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class because they insisted upon a work environment free of race discrimination and/or because they complained about race discrimination.

170. Defendant IKON has retaliated against Class Representatives Rosenberg and Anderson and the members of the proposed class by subjecting them to retaliatory employment actions, including but not limited to, denying them promotions for which they were qualified and subjecting them to disparate terms and conditions of employment, race discrimination, a hostile work environment and/or other forms of discrimination in violation of New York City Administrative Code.

171. Defendant IKON's actions were intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of causing harm to Class Representative Rosenberg, Class Representative Anderson and the members of the proposed class.

172. Defendant IKON has continuously engaged in, condoned and ratified retaliation which construes a continuing violation of New York City Administrative Code § 8-107, subd. 1(a).

173. As a direct and proximate result of IKON's aforementioned conduct, Class Representatives Rosenberg and Anderson and the members of the proposed class were damaged and suffered economic losses, mental and emotional harm, anguish and humiliation.

174. By reason of the retaliation suffered at IKON, Class Representatives Rosenberg and Anderson and the members of the proposed class are entitled to all legal and equitable remedies available under New York City Administrative Code, including attorneys' fees.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Class Representatives Rosenberg and Anderson on behalf of themselves and the class members whom they seek to represent request the following relief:

- a. Acceptance of jurisdiction of this cause;
- b. Certification of the case as a class action maintainable under Federal Rules of Civil Procedure Rule 23 (a), (b)(2) and/or (b)(3), on behalf of the proposed plaintiff class, and designation of Plaintiffs as representatives of the class and their counsel of record as class counsel;
- c. Declare and adjudge that Defendant IKON has violated Plaintiffs' rights under Title VII;
- d. A temporary injunction against Defendant IKON and its partners, officers, owners, agents, successors, employees, representatives and any and all persons acting in concert with it, from engaging in any further unlawful practices, policies, customs, usages, racial discrimination and retaliation by defendant set forth herein;
- e. A permanent injunction against Defendant IKON and its partners, officers, owners, agents, successors, employees, representatives and any and all persons acting in concert with it, from engaging in any further

unlawful practices, policies, customs, usages, racial discrimination and retaliation by defendant set forth herein;

e. An Order requiring Defendant to initiate and implement programs that (i) provide equal employment opportunities for African-American employees; (ii) remedy the effect of IKON's past and present unlawful employment practices; and (iii) eliminate the continuing effects of the discriminatory and retaliatory practices described above;

f. An Order requiring Defendant to initiate and implement systems of assigning, training, transferring, compensating, and promoting African-American employees in a non-discriminatory manner;

g. An Order establishing a task force on equality and fairness to determine the effectiveness of the programs described in (e) and (f), above, which would provide for (i) the monitoring, reporting, and retaining of jurisdiction to ensure equal employment opportunity, (ii) the assurance that injunctive relief is properly implemented, and (iii) a quarterly report setting forth information relevant to the determination of the effectiveness of the programs described in (e) and (f), above;

h. An Order restoring Class Representative Rosenberg, Class Representative Anderson and the class he seeks to represent to those jobs they would now be occupying but for IKON's discriminatory practices;

i. An Order directing IKON to adjust the wage rates and benefits for Class Representative Rosenberg, Class Representative Anderson and the

class they seek to represent to the level that they would be enjoying but for IKON's discriminatory practices;

j. An award of back pay; front pay; lost job benefits; preferential rights to jobs, and other equitable relief for Mr. Rosenberg, Mr. Anderson and the class he seeks to represent;

k. An award of compensatory damages in an amount not less than 50 million dollars;

l. Punitive damages under Counts X, XI and XII in the sum of 50 million dollars on behalf of all past, current and future IKON employees employed by IKON in the city of New York;

m. Prejudgment and postjudgment interest; and

n. Such other and further relief as the Court may deem just and proper.

VIII. JURY DEMAND

Plaintiffs and the class demand a trial by jury of all issues.

Dated: October 26, 2005

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