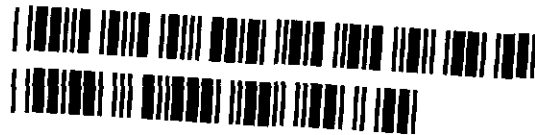


Honorable Robert S. Lasnik



99-CV-01227-CMP

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

| | | |
|--------------------------------|---|--------------------|
| |) | |
| KHALIL NOURI, et al., |) | No. C99-1227L |
| |) | |
| Plaintiffs, |) | |
| |) | FIFTH AMENDED |
| vs. |) | CONSOLIDATED CLASS |
| |) | ACTION COMPLAINT |
| THE BOEING COMPANY, a Delaware |) | |
| corporation, |) | |
| |) | |
| Defendant. |) | |
| |) | |

I. INTRODUCTION

1. The Plaintiffs bring this action to challenge employment policies and practices which have the effect and have been undertaken by Boeing with the purpose of denying equal compensation and equal retention ratings to qualified Asian American employees in violation of

1 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, the Civil Rights Act of
2 1991, 42 U.S.C. § 1981a, and the Civil Rights Act of 1871, 42 U.S.C. § 1981, as amended.
3 Plaintiffs Lear Lavi, Ahmad Golchin, Syed Rizvi, Mike Taing, Khalil Nouri, Raul Aballe and
4 Bao Trinh sue on behalf of themselves and a class of all similarly situated Asian American
5 employees of Boeing. The Plaintiffs challenge the use of excessively subjective decisionmaking
6 by Boeing in making compensation and retention decisions which have operated to deny
7 retention and equal compensation to qualified Asian American employees. These discriminatory
8 practices have been undertaken with the intention, and have had the effect, of denying retention
9 and equal compensation to qualified Asian American employees.
10

11 **II. JURISDICTION, VENUE AND EXHAUSTION OF REMEDIES**

12
13 2. Plaintiffs' claims arise under Title VII of the Civil Right Act of 1964, 42 U.S.C.
14 §§ 2000e *et seq.*, and 42 U.S.C. § 1981. This Court has jurisdiction over this matter pursuant to
15 42 U.S.C. § 2000e5(f) and 28 U.S.C. §§ 1331 and 1343(a)(4).

16 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) & (c). Boeing's
17 principal place of business is located in the Western District of Washington and a substantial part
18 of the unlawful acts set forth below occurred in this district.

19 4. Plaintiffs have exhausted administrative remedies pursuant to 42 U.S.C.
20 § 2000e5(f)(3).
21

22 **III. PARTIES**

23 5. Plaintiff Lear Lavi, an Asian-American of Iranian descent, is currently a resident
24 of Los Angeles, California. Mr. Lavi began working for Boeing in 1991. Until 1999, Mr. Lavi
25 was employed by Boeing at its Renton facility, Single Aisle Division located in Renton,
26

1 Washington.

2 6. Plaintiff Ahmad Golchin, an Asian-American of Iranian descent, is a resident of
3 Marysville, Washington. Mr. Golchin began working for Boeing in 1997. Until January 1999,
4 Mr. Golchin was employed by Boeing at its facility located in Everett, Washington.
5

6 7. Plaintiff Syed Rizvi, an Asian-American of Indian and Pakistani descent, is a
7 resident of Mill Creek, Washington. Mr. Rizvi began working for Boeing in 1992. Until 1999,
8 Mr. Rizvi was employed by Boeing at its facility located in Everett, Washington.

9 8. Plaintiff Mike Taing, an Asian-American of Cambodian descent, is a resident of
10 Everett, Washington. Mr. Taing began working for Boeing in 1996. At all times relevant to this
11 action, Mr. Taing has been employed by Boeing at its facility located in Everett, Washington.
12

13 9. Plaintiff Khalil Nouri, an Asian-American of Afghani descent, is a resident of
14 Everett, Washington. Mr. Nouri began working for Boeing in 1992. Until 1999, Mr. Nouri was
15 employed by Boeing at its facility located in Auburn, Washington and at its facility located in
16 Everett, Washington.

17 10. Plaintiff Raul Aballe, an Asian-American of Filipino descent, is a resident of the
18 state of Washington. Mr. Aballe began working for Boeing in 1996 with the Boeing Commercial
19 Airplane Group in Auburn, Washington. Mr. Aballe was laid off from Boeing in 1999.
20

21 11. Plaintiff Bao Trinh, an Asian-American of Vietnamese descent, is a resident of
22 Edmonds, Washington. Mr. Trinh began working for Boeing in 1997, in the company's
23 Manufacturing Engineer Planning Group in Everett, Washington.

24 12. Boeing is a Delaware corporation whose principal place of business is located in
25 Seattle, Washington. Boeing owns and/or operates numerous facilities in the State of
26

1 Washington and other locations throughout the United States of America. Boeing is an employer
2 within the meaning of 42 U.S.C. §2000e-5(b) and does business in the Western District of
3 Washington. Boeing wholly owns and exclusively operates all the facilities at which the
4 unlawful practices alleged herein occurred.

5
6 **IV. PRACTICES CHALLENGED**

7 13. Boeing's policies and procedures governing retention ratings and compensation
8 provide for decisions that are excessively subjective, permitting managers, who are
9 predominantly white, to make decisions that improperly exclude qualified Asian American
10 employees from equal compensation and retention ratings.

11 14. Boeing engages in discrimination with respect to compensation and retention
12 primarily through a process of group decisionmaking in which predominantly white managers
13 make decisions affecting the compensation and retention rating for large numbers of employees,
14 about many of whom they have no first hand knowledge. As a result, Boeing compensates Asian
15 American employees less than similarly situated white employees who are performing similar
16 work.

17
18 15. Boeing employs a process for assigning retention ratings and selecting employees
19 for downsizing or layoff which permits managers to manipulate the system to retain favored
20 employees, and layoff disfavored employees. The predominantly white managers exercise this
21 excessive discretion to protect white employees from layoffs, and select Asian American
22 employees for layoffs.
23
24

25 **V. CLASS ACTION ALLEGATIONS**
26

1 16. The Plaintiffs request that the Court certify a class consisting of the following:
2 All current and former employees whose national origin or ethnic background is Cambodia,
3 Vietnam, the Phillipines, India, Pakistan, Afghanistan or Iran, who have been employed at
4 Boeing's facilities in the state of Washington as salaried employees in Paycodes 2T or 4, below
5 the level of first level manager at any time from October 12, 1996 through the present.
6

7 17. This action is properly maintainable as a class action under Rule 23(a) because the
8 requirements of this Rule are met.

9 18. The class members are sufficiently numerous to make joinder of all members
10 impracticable. Upon information and belief, Boeing employs more than a thousand Asian
11 American technical and engineering employees in Washington state below the level of first level
12 manager.
13

14 19. The claims alleged on behalf of the Plaintiffs raise questions of law or fact
15 common to the class. These common questions include:

- 16 a. whether Boeing permits managers excessive subjectivity in making
17 compensation decisions;
18 b. whether Boeing permits managers excessive subjectivity in making
19 retention rating and downsizing decisions;
20 c. whether this excessive subjectivity has a disparate impact on Asian
21 American employees in violation of Title VII; and
22 d. whether this excessive subjectivity represents a deliberate action by
23 Boeing to block promotion of Asian American employees, compensate
24 Asian American employees less than similarly situated white employees,
25
26

1 and expose Asian American employees to a greater risk of layoff or
2 downsizing, in violation of Title VII.

3 20. The claims alleged on behalf of the Plaintiffs are typical of those of the class. All
4 of the claims arise from Boeing's policies and practices permitting excessively subjective
5 decision making with respect to compensation and retention.
6

7 21. The class representatives and counsel will adequately and fairly protect the
8 interest of the class.

9 22. This class action is properly maintainable as a class action under Fed. R. Civ. Pro.
10 23(b)(2) because the party opposing the class has acted or refused to act on grounds generally
11 applicable to the class thereby making appropriate final injunctive relief or corresponding
12 declaratory relief with respect to the class as a whole.
13

14 23. The class action is also properly maintainable pursuant to Rule 23(b)(3) because
15 the questions of law and fact common to members of the class predominate over questions
16 affecting only individual members and a class action is superior to other available methods for
17 the fair and efficient resolution of this controversy.
18

19 VI. ALLEGATIONS OF NAMED PLAINTIFFS

20 Lear Lavi

21 24. Plaintiff Lavi is an Asian American of Iranian descent. He received a Bachelor of
22 Science degree in Industrial Engineering from the University of Cincinnati in 1990. He then
23 worked for General Dynamics as an engineer prior to being hired by Boeing.

24 25. Mr. Lavi was hired by Boeing in April 1991 into the I&R Tool Engineering
25 Group. Mr. Lavi was classified on the technical paycode series at grade level 33. Mr. Lavi was
26

1 not promoted to grade 35 until 1994.

2 26. Mr. Lavi was paid less than similarly situated white employees and got raises that
3 were smaller than similarly situated white employees.

4 27. Mr. Lavi was transferred to Material Handling where he worked from December
5 1993 to February 1995, and then to DCAC where he worked from February 1995 to June 1996.

6 28. In June 1996 Mr. Lavi transferred to the 757-300 Program Tool Engineering
7 group. In September 1997 Mr. Lavi was transferred to the I&R Outplant Tool Engineering
8 group. In January 1998 a position became available at the Lead level (grade 38) in an I&R
9 Group. Mr. Lavi expressed an interest in the position, and was selected as the I&R Chairman,
10 while he continued to perform his prior position in Outplant Tool Engineering. Mr. Lavi was not
11 paid as much as similarly situated whites even for this extraordinary effort in covering two
12 positions.
13

14 29. In April 1998, Mr. Lavi was reclassified to the professional engineer paycode
15 series, at the grade 12 level, skill code MA1, job number W12. However, Mr. Lavi was not paid
16 as much as similarly situated white employees, even in this new position.
17

18 30. In approximately January or February 1999, Mr. Lavi attended a joint meeting of
19 two groups, and Rick Roppel, the first level manager for another group said to one of the Asian
20 employees present, "I can't tell if you are asleep or awake, maybe you need toothpicks to prop
21 your eyes open." Mr. Lavi and other Asian American employees were offended by this apparent
22 reference to the "oriental" eyes of the employee whom Roppel addressed. In May 1999 Mr. Lavi
23 reported this incident to Boeing's internal EEO office. He had also observed that Mr. Roppel
24 picked on his Asian American employees. During the same time frame another manager told
25
26

1 Mr. Lavi that he felt bad for Asians because Boeing took advantage of the Asian American
2 employees, because management believed that Asian American workers were passive and would
3 not complain.

4 31. In May 1999, Mr. Lavi learned that a new group was forming that would not be at
5 risk for layoffs. He applied for this new tool engineering position, and was one of the first to
6 express any interest. However, Mr. Lavi was not selected for this position. Similarly situated
7 white employees were given access to this group.

8 32. In August 1999, Mr. Lavi received notice that he would be laid off. Many white
9 employees with less experience and skill than Mr. Lavi were not laid off.

10 33. On or about December 29, 1999 Mr. Lavi executed a charge for the EEOC, which
11 was acknowledged received by the EEOC on or about January 19, 2000.

12
13
14 Ahmad Golchin

15 34. Plaintiff Golchin was born in Iran and has lived in the United States since 1974.
16 He received a Bachelor of Science degree in Civil Engineering from the University of Utah in
17 June, 1993. From 1993 to 1997, Mr. Golchin was employed by the State of Utah Department of
18 Environmental Quality as an Environmental Specialist.

19 35. In February, 1997 Mr. Golchin was hired by Boeing as a Manufacturing Engineer
20 (skill code MM6) with a salary of \$37,000 per year. Mr. Golchin was given a retention rating of
21 R3, which meant that he would be among the first persons to be laid off. White employees with
22 lesser work experience than Mr. Golchin were paid several thousand dollars more per year than
23 Mr. Golchin.

24
25 36. In October 1997, Mr. Golchin's retention rating was increased to R2, in
26

1 recognition of his past engineering experience and his good performance at Boeing.

2 37. In July 1998, Mr. Golchin's team was disbanded. There were several white
3 employees who management wanted to protect from layoffs, and they were moved to positions
4 which would minimize their exposure to layoffs. However, Mr. Golchin and two other non-
5 white employees (including one Filipino Asian American and one Ethiopian American
6 employee), as well as two white employees were moved to the Section 44/747 group under
7 supervisor Gary Rubino.
8

9 38. In or about October 1998, Mr. Golchin's retention rating was dropped from R2 to
10 R3, as were the ratings of the other two non-white employees. This exposed Mr. Golchin and the
11 others to greater risk of downsizing. A white employee who was similarly situated, with even
12 less work experience, was given more favorable treatment, however, and had his retention rating
13 increased from R3 to R2.
14

15 39. On or about November 5, 1998, Mr. Golchin was moved to another group at the
16 same location, Section 46, under the supervision of Larry Pirone. The other non-white
17 employees were also transferred at the same time, but the white employees were able to stay in
18 the Section 44 group.
19

20 40. On November 25, 1998, Mr. Golchin and the two other non-white employees
21 received their notices concerning layoff, and on January 29, 1999, Mr. Golchin was laid off.

22 41. The white employees who were supervised by Mr. Rubino were treated better and
23 protected from layoffs. Mr. Rubino was more willing to talk and chat with white employees.

24 42. On or about February 9, 1999 Mr. Golchin filed a timely charge with the EEOC.
25 On August 31, 1999 he received a notice of his right to sue.
26

Syed Rizvi

1
2 43. Plaintiff Rizvi was born in India, subsequently moved to Pakistan, and has lived
3 in the United States since 1963. Mr. Rizvi received his Bachelor of Science degree in Electrical
4 Engineering from Western States College in Los Angeles, CA in 1967. Mr. Rizvi has worked as
5 an engineer since 1967 at corporations such as Xerox, Hughes Aircraft, Magnovox, Ford
6 Aerospace, Rockwell International, and Douglas Aircraft Co.

7
8 44. Mr. Rizvi was hired by Boeing in 1992 as a Tool Engineering Specialist with job
9 classification MWJW, grade 35.

10 45. Mr. Rizvi was ultimately given credit for his work with Rockwell and Douglas
11 between 1984 and 1991, because both companies were taken over by Boeing. However, even
12 with this acknowledgment of the additional years of service credited with Boeing, Mr. Rizvi
13 continued to be paid less than similarly situated white employees.
14

15 46. Mr. Rizvi received good performance reviews, but never received a raise that was
16 consistent with his good performance. Similarly situated white employees did receive higher
17 pay.

18 47. Mr. Rizvi's first assignment was in Organization U-3863, where he remained
19 from 1992 until 1998. During that time he had four different supervisors, all of whom were
20 white. William Cooper was his supervisor for the longest period of time, from 1992-1997. Mr.
21 Rizvi observed that Mr. Cooper talked primarily to white employees who he was friendly with.
22

23 48. In 1998 Boeing reduced the number of people who were assigned to tool design,
24 and several people were transferred from Mr. Rizvi's group. Mr. Rizvi was the only one
25 assigned to the 747 program Fuselage Assembly Integration Testing (FAIT); the other employees
26

1 who were transferred were assigned to the 767 or Flightline divisions. This transfer placed Mr.
2 Rizvi in Organization T-B365 under the supervision of Richard G. Billieu.

3 49. Mr. Rizvi had a retention rating of R2, so that should have been in the second
4 group laid off, not the first. However, he was one of the newer employees to that particular
5 group. In March, 1999, Mr. Rizvi was laid off. Similarly situated white employees who had less
6 experience as engineers and fewer years seniority with Boeing were not laid off, but Mr. Rizvi
7 was.
8

9 50. Even after Mr. Rizvi received his notice that he would be laid off, there were new
10 employees brought into his work group who were white. These employees were still with the
11 group after Mr. Rizvi was laid off.
12

13 51. On or about December 16, 1999 Mr. Rizvi executed a charge of discrimination
14 which was acknowledged received by the EEOC on or about January 4, 2000.

15 Mike Taing

16 52. Plaintiff Taing was born in Cambodia and has lived in the United States since
17 1981. He received a Bachelor of Science degree in Industrial Engineering in 1993 from the
18 University of Washington. From 1993 to 1996, Mr. Taing was employed as an industrial
19 engineer at Federated Logistics.
20

21 53. In or about September 1996, Mr. Taing was hired by Boeing as a manufacturing
22 engineer with job classification NHJS. Mr. Taing was assigned to grade level 33. He was paid
23 less than similarly situated employees.

24 54. Mr. Taing has a retention rating of R3, which means that he will be among the
25 first persons to be laid off. Less qualified employees who are white have better retention ratings
26

1 than Mr. Taing. For example, Larry Milzarek who does not have an engineering degree and who
2 consistently asks Mr. Taing for assistance in answering questions, has a retention rating of R2.

3 55. Mr. Taing has received Certificates of Achievement from Boeing recognizing his
4 good work.

5 56. In or about December 18, 1999, Mr. Taing filed a timely charge with the EEOC.

6
7 Khalil Nouri

8 57. Plaintiff Nouri was born in Afghanistan and has lived in the United States since
9 1974. Mr. Nouri completed 117 credits in mechanical drafting and related fields at Pasadena
10 City College in 1990, the equivalent of an associate's degree. In 1999, Mr. Nouri received his
11 Bachelor of Science degree in mechanical engineering from Henry Cogswell College.

12 58. Mr. Nouri worked in tool design and related fields beginning in 1979. In 1992 he
13 was hired by Boeing as a Tool Design Engineer, in the technical paycode series, grade 33. He
14 was employed in the Fabrication Division in Auburn, WA. In December 1992, Mr. Nouri was
15 promoted to grade level 35, in recognition of Mr. Nouri's extensive prior experience and his
16 knowledge of tool engineering.

17 59. In December 1995, Mr. Nouri was transferred to the 777 Tool Engineering
18 Division in Everett, WA with job classification MWJW35.

19 60. Mr. Nouri's retention rating when he was first hired was R3, designating him in
20 the first group to be laid off if Boeing went through a reduction in force. In August 1996, Mr.
21 Nouri's retention rating was increased to R2. The following year, in June 1997, Boeing reduced
22 Mr. Nouri's retention rating to R3; he appealed this decision and in July 1997 his R2 rating was
23 restored. However, in November 1998 Boeing once again downgraded Mr. Nouri to R3, placing
24
25
26

1 him at risk of layoff. Indeed, he was laid off in March 1999.

2 61. Throughout Mr. Nouri's employment, he had greater skills, knowledge, work
3 experience and seniority than similarly situated white employees who were given higher
4 retention ratings of R2 and even R1.

5 62. Mr. Nouri received letters of commendation recognizing his good work
6 performance.

7 63. Mr. Nouri was consistently compensated less than similarly situated white
8 employees.

9 64. From December 1995 through June 1997, while Mr. Nouri worked in the 777
10 Tool Engineering Division, he was repeatedly exposed to derogatory comments based upon his
11 race or national origin by co-worker Dan Lucky and lead Mike Dennis. These comments
12 included calling Mr. Nouri "towel head" and making statements such as "Middle Easterners
13 don't brush their teeth." Mr. Nouri reported these comments to his first level manager, Pamela
14 Brooks, and then to the internal EEO office for Boeing. A few months later, his supervisor, Ms.
15 Brooks, made a formal apology to Mr. Nouri. Mr. Nouri is unaware of any disciplinary action
16 being taken against either Lucky or Dennis.

17 65. Mr. Nouri then requested and received a transfer to another group, the 767-400ER
18 Body Structures Tool Engineering Group, in or about July 1997.

19 66. Mr. Nouri did not receive any performance evaluation in the two years prior to his
20 lay off, including during the time when his retention rating was dropped from R2 to R3. Thus,
21 Mr. Nouri was never informed, whether through the performance evaluation or otherwise, of any
22 concerns that Boeing might have about his work performance which would justify changing his
23
24
25
26

1 retention rating.

2 67. In Mr. Nouri's new group he was again exposed to derogatory comments about
3 his national origin, including comments about the fact that he was not born in the United States.
4 Someone began leaving pictures of a camel on his desk, and he was referred to as "hey, Arab."
5

6 68. Mr. Nouri reported these incidents to his manager, Paul Anderson. However, Mr.
7 Anderson responded to Mr. Nouri's complaint by stating words to the effect that "it is surplus
8 time, the company is cutting back heads, laying off time is going on, so don't make any waves."
9 Following Mr. Nouri's complaint, Mr. Anderson moved Mr. Nouri to another location, leaving
10 the perpetrator of the harassment in place.

11 69. In the 767-400 Tool Engineering Body Structures group that Mr. Nouri was
12 assigned to, there were eight employees in the technical paycode series. Of these, three were
13 Asian, 1 was African American, and 4 were white. Of the three Asian employees, two were laid
14 off in March 1999, and the third voluntarily accepted layoff due to her pregnancy. However,
15 none of the white employees in the same positions were affected by the March 1999 layoff.
16

17 70. On July 7, 1998, Mr. Nouri filed a timely Charge of Discrimination with the
18 EEOC and received his Notice of Right to Sue letter on or about May 13, 1999.

19
20 Raul Aballe

21 71. Plaintiff Raul Aballe was born in the Philippines and has lived in the United
22 States since 1974.

23 72. Mr. Aballe received a Bachelor of Science in Mechanical Engineering from the
24 Cebu Institute of Technology in the Philippines in 1972. Plaintiff Aballe completed numerous
25 additional technical training programs in computer programming, AutoCAD, and related areas.
26

1 He has also completed more than 1100 hours of personnel, management and business operations
2 training while employed with Boeing.

3 73. Mr. Aballe worked as an engineer with other employers from 1977 to 1989. In
4 November 1996, he was hired by Boeing into a Paycode 2T position and began working as an
5 Assembler/Mechanic with BCAG in Auburn, Washington. In April 1998, Mr. Aballe became a
6 Quality Assurance Material Receiving Inspection Planner, another Paycode 2T position.

7
8 74. Throughout his employment with Boeing, Mr. Aballe's retention rating was kept
9 at the lowest level, R3, although similarly skilled white employees had retention ratings of R2 or
10 higher.

11 75. The only time Mr. Aballe received a salary increase during his two and a half
12 years of employment with Boeing was in 1998 during a time period when he had an African
13 American supervisor. At all other times, when he was supervised by Caucasian managers, he
14 received no pay increases. Even with the pay increase, Mr. Aballe, upon information and belief,
15 was paid less than similarly qualified white employees.

16
17 76. While employed by Boeing, Mr. Aballe was subjected to derogatory remarks
18 about his ethnic origin. In the summer of 1998, Steve Dixon, a white co-worker, called Mr.
19 Aballe a "FLIP." This is a derogatory term directed at Filipinos which stands for "fucking little
20 island people." Mr. Aballe complained to his supervisor, Donald Smith, who simply told him to
21 try to avoid Mr. Dixon. While Mr. Aballe tried to do so, Mr. Dixon continued his hostile
22 treatment of Mr. Aballe. In addition to cursing at him, and playing music at a volume which
23 disturbed Mr. Aballe, Mr. Dixon would dump his work on Mr. Aballe's desk, and expect Mr.
24 Aballe to finish it.
25
26

1 being reduced, while at the same time bringing a white American-born employee into the group
2 in order to protect that employee from being laid off. The managers often claim that these
3 transfers occur so that the Asian employee can gain more experience with different groups. In
4 truth, it is always an Asian employee, such as Steven Ung or Connie Tran, who is laid off while
5 white employees are spared by being transferred to a "safe" group (for example, Kevin
6 Westcott).
7

8 83. When Mr. Trinh began working for Boeing in 1997, he started with a retention
9 rating of R3, and a year later, in 1998, was moved up to R2. In March 2000, however, Mr. Trinh
10 was moved back down to R3. Similarly, Mr. Trinh's pay level has not increased as those of
11 similarly situated white employees has.
12

13 84. Mr. Trinh was told by Frank Williston, one of his supervisors, that Trinh was in
14 the top 10 percent of all Boeing employees in terms of work ethic. Trinh regularly completes 5-8
15 work orders each day, whereas white American-born employees in my group, such as Vicki
16 Rosas, only complete 1 or 2 projects per day. Indeed, Mr. Trinh is often given particularly
17 difficult assignments because his Leads know that he can complete them competently and on
18 time.
19

20 85. Mr. Trinh is the most productive in his group, one of the most proficient members
21 of his group's Problem Resolution Team. Regularly, and has received thank you letters from
22 customers. Despite this, Mr. Trinh has never been compensated or given retention aratings
23 comparable to his white American-born peers.
24
25
26

1 **VII. COUNTS**

2 **COUNT I**

3 *Violation of Title VII - Disparate Impact*

4 86. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 94.

5 87. Boeing has maintained a system for making compensation and retention decisions
6 that is excessively subjective and which has a disparate impact on Asian American employees.

7 88. The defendant's discriminatory practices described above have denied Asian
8 American employees compensation and retention ratings to which they are entitled, which has
9 resulted in the loss of past and future wages and other job benefits.
10

11 89. These employment practices violated § 703 of Title VII of the Civil Rights Act of
12 1964, as amended, 42 U.S.C. §2000e-2.

13 **COUNT II**

14 *Violation of Title VII - Disparate Treatment*

15 90. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 94.

16 91. Boeing has maintained a system for making retention and compensation decisions
17 that is excessively subjective and through which Boeing discriminates against Asian American
18 employees by denying them the same opportunities for compensation and retention afforded to
19 similarly situated white employees.
20

21 92. The defendant's discriminatory practices described above have denied Asian
22 American employees compensation and retention ratings to which they are entitled, which has
23 resulted in emotional distress and other harm for which they are entitled to compensation.

24 93. Defendant has undertaken these discriminatory practices willfully or with reckless
25 disregard for the Plaintiffs' rights protected under Title VII.
26

1 employment practices in conformity with the requirements of Title VII of the Civil Rights
2 Act of 1964, 42 U.S.C. § 2000e, *et seq* and 42 U.S.C. §1981;

3 4. Award back pay and other job benefits sufficient to make the Plaintiffs whole;

4 5. Award compensatory and punitive damages appropriate to the proof at trial;

5 6. Award reasonable attorneys' fees and costs, including expert fees, pursuant to 42
6 U.S.C. § 2000e and 42 U.S.C. § 1988; and

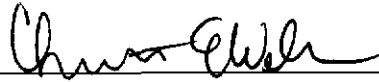
7 7. Order such other and further relief as the Court deems just and proper.

8
9 **JURY TRIAL DEMAND**

10 The Plaintiffs hereby demand a jury trial.

11 Dated: March __, 2002

12 Respectfully submitted,

13 

14 Steven J. Toll, WSBA #27786
15 Murray T.S. Lewis, WSBA #13307
16 Matthew J. Ide, WSBA #26002
17 COHEN, MILSTEIN, HAUSFELD
18 & TOLL, P.L.L.C.
19 999 Third Ave., Suite 3600
20 Seattle, Washington 98104-4001
21 (206) 521-0080

22 Joseph M. Sellers
23 Christine E. Webber
24 COHEN, MILSTEIN, HAUSFELD
25 & TOLL, P.L.L.C.
26 1100 New York Ave., N.W.
West Tower, Suite 500
Washington, D.C. 20005
(202) 408-4600

Harish Bharti
5516 - 17th Ave. NW
Seattle, Washington 98107



(206)282-5630

Counsel for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26