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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DERRICK SATCHELL, KALINI
BOYKIN, VALERIE BROWN, RICK
GONZALES, CYNTHIA GUERRERO,
RACHEL HUTCHINS, DANIEL
SHERMAN, KELVIN SMITH, SR., and
KEN STEVENSON, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

FEDEX EXPRESS, a Delaware
corporation,

Defendant.

Case No. C 03-2659 SI; C 03-2878 SI

CLASS ACTION

**CONSOLIDATED AMENDED
COMPLAINT FOR VIOLATIONS OF
TITLE VII OF THE CIVIL RIGHTS ACT
OF 1964; 42 U.S.C. § 1981; CALIFORNIA
FAIR EMPLOYMENT AND HOUSING
ACT**

JURY TRIAL DEMANDED

INTRODUCTION

Individual and representative Plaintiffs Derrick Satchell (“Satchell”), Kalini Boykin (“Boykin”), Valerie Brown (“Brown”), Rick Gonzales (“Gonzales”), Cynthia Guerrero (“Guerrero”), Rachel Hutchins (“Hutchins”), Daniel Sherman (“Sherman”) Kelvin Smith, Sr. (“Smith”), and Ken Stevenson (“Stevenson”) (collectively “Plaintiffs”), on behalf of themselves and all others similarly situated, allege as follows:

PRELIMINARY STATEMENT

1. This race discrimination class action is brought on behalf of two classes of African American and Latino (“Minority”) employees of defendant FedEx Express. One class consists of all African American and Latino hourly Handlers, Couriers, Shuttle Drivers, Customer Service Agents, Cargo Handlers, Ramp Agents, Equipment Operators, and Ramp Transit Drivers working in Defendant’s Western Region (comprising the states of Alaska, Arizona, California, Colorado, Hawaii, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), during the period October 17, 1999 through the date of judgment in this action (“Minority Employee Class”). The second class consists of all African American and Latino Operations Managers and other managers below the level of Senior Manager working in Defendant’s Western Region during the period October 17, 1999 through the date of judgment in this action (“Minority Lower Management Class”).

2. Representative Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Sherman, Smith, and Stevenson allege on behalf of themselves and the Minority Employee Class that FedEx Express engages in a continuing policy and practice of racial discrimination through the use of subjective and arbitrary decision making against its African American and Latino hourly employees in the Western Region by (1) disproportionately assigning Minority Employees to part-time and casual positions, instead of to the full-time and permanent hourly positions to which similarly situated non-Minority employees are sometimes initially assigned; (2) providing Minority Employees with fewer promotions to full-time and permanent hourly positions than provided to similarly situated non-Minority employees; (3) providing Minority Employees with fewer promotions to management positions than provided to similarly situated non-Minority

1 employees; (4) providing Minority Employees with less compensation, including less pay for the
2 same work and less overtime, than provided to similarly situated non-Minority employees; and
3 (5) disciplining Minority Employees for petty matters and/or for infractions unsupported or
4 contradicted by credible evidence, for which similarly situated non-Minority employees are not
5 disciplined or are disciplined less harshly.

6 3. Representative Plaintiffs Derrick Satchell and Kalini Boykin allege on
7 behalf of themselves and the class of Minority Lower Management that FedEx Express engages
8 in a continuing policy and practice of racial discrimination through the use of subjective and
9 arbitrary decision making against its African American and Latino Operations Managers and
10 other managers below the level of Senior Manager (“Minority Lower Managers”) in the Western
11 Region by (1) providing Minority Lower Managers with fewer promotions to higher management
12 grade levels and/or senior management positions than provided to similarly situated non-Minority
13 managers; (2) providing Minority Lower Managers with less compensation, including less pay for
14 the same work, than provided to similarly situated non-Minority managers; and (3) disciplining
15 Minority Lower Managers for petty matters and/or for infractions unsupported or contradicted by
16 credible evidence, for which similarly situated non-Minority managers are not disciplined or are
17 disciplined less harshly.

18 4. This action seeks an end to these discriminatory practices, and seeks
19 declaratory and injunctive relief, including rightful place relief, back pay, front pay, and
20 compensatory and punitive damages for the individual Plaintiffs and members of the two classes.

21 **JURISDICTION AND VENUE**

22 5. This Court has jurisdiction over this action under 28 U.S.C. § 1331 and
23 42 U.S.C. §§ 2000e-5(f)(3) and 42 U.S.C. § 1981. The action presents federal questions under
24 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended, and 42 U.S.C.
25 § 1981. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over plaintiffs’
26 claims under the California Fair Employment and Housing Act, Cal. Gov’t Code §§ 12940, *et*
27 *seq.*

28 6. Venue is proper in this district pursuant to 42 U.S.C. § 2000e5(f) and

1 28 U.S.C. § 1391 (b) & (c). All the named Plaintiffs' claims arose in California, and many of the
2 acts complained of herein occurred in this District and gave rise to the claims alleged. Defendant
3 operates over 100 facilities in California and employs thousands of workers in the State of
4 California. Defendant operates at least 10 facilities in the Northern District of California.

5 **THE PARTIES**

6 7. Plaintiff Derrick Satchell is an African American formerly employed by
7 Defendant FedEx Express as a Courier Operations Manager at its distribution facility located at
8 335 Brokaw Road, Santa Clara, California (the "Santa Clara Facility"). Plaintiff Satchell was
9 employed by Defendant from approximately June, 1992 until April 16, 2002. Plaintiff Satchell is
10 a resident of Tracy, California. Plaintiffs are informed and believe, and thereon allege, that
11 Plaintiff is eligible for rehire.

12 8. Plaintiff Kalini Boykin is an African American currently employed by
13 Defendant as a Rapid Transport Driver ("RTD") Operations Manager at its operations facility
14 located at 1254 Davis Street, San Leandro, California (the "San Leandro Facility"). Plaintiff
15 Boykin has been employed by Defendant in several capacities since approximately May 1995.
16 Plaintiff Boykin is a resident of Vallejo, California.

17 9. Plaintiff Valerie Brown is an African American currently employed by
18 Defendant as a Lead Customer Service Agent at the Santa Clara Facility. Plaintiff Brown has
19 been employed by defendant Fedex Express at several of its facilities and in several capacities
20 since approximately 1982. Plaintiff Brown is a resident of Tracy, California.

21 10. Plaintiff Rick Gonzales is a Latino currently employed by Defendant
22 FedEx Express as a Courier at Defendant's Facility in Santa Fe Springs, California. Plaintiff
23 Gonzales has been employed by Defendant since approximately May 1988. Plaintiff Gonzales is
24 a resident of Temecula, California.

25 11. Plaintiff Cynthia Guerrero is a Latina currently employed by Defendant
26 FedEx Express as a Courier at Defendant's Santa Fe Springs facility in California. Plaintiff
27 Guerrero has been employed by Defendant since approximately 1995. Plaintiff Guerrero is a
28 resident of Santa Fe Springs, California.

1 12. Plaintiff Rachel Hutchins is an African American currently employed by
2 Defendant FedEx Express as a part-time, casual Handler at Defendant's Facility in Bakersfield,
3 California. Plaintiff Hutchins has been employed by Defendant since approximately December
4 1995. Plaintiff Hutchins is a resident of Bakersfield, California.

5 13. Plaintiff Daniel Sherman is an African American employed by Defendant
6 FedEx Express as a part-time Lead Handler at Defendant's facility in Sunnyvale, California.
7 Plaintiff Sherman has been employed by Defendant since approximately February 1999. Plaintiff
8 Sherman is a resident of Santa Clara, California.

9 14. Plaintiff Kelvin Smith is an African American previously employed by
10 Defendant FedEx Express as a part-time Lead Handler at Defendant's Facility in Santa Clara,
11 California. Plaintiff Smith was employed by Defendant from approximately November 1989 to
12 July 2002. Plaintiff Smith is a resident of Apple Valley, California. Plaintiffs are informed and
13 believe, and thereon allege, that Plaintiff is eligible for rehire.

14 15. Plaintiff Ken Stevenson is an African American currently employed by
15 Defendant FedEx Express as a Courier at Defendant's Facility in Santa Fe Springs, California.
16 Plaintiff Stevenson has been employed by Defendant since approximately May 1997. Plaintiff
17 Stevenson is a resident of Long Beach, California.

18 16. Defendant FedEx Express is, and at all times mentioned herein was, a
19 Delaware corporation operating express mail and package delivery and freight delivery services
20 in the San Francisco Bay Area, as well as throughout the State of California and the United
21 States. FedEx Express operates facilities, among other places, in Bakersfield, Emeryville,
22 Milpitas, Oakland, San Francisco, San Jose, San Leandro, Santa Clara, Santa Fe Springs, and
23 Sunnyvale, California.

24 **CLASS ALLEGATIONS**

25 17. The Representative Plaintiffs bring this class action pursuant to Fed. R.
26 Civ. P. 23(a), (b)(2), and (b)(3), on behalf of: (1) a Minority Employee Class of all African
27 American and Latino hourly Handlers, Couriers, Shuttle Drivers, Customer Service Agents,
28 Cargo Handlers, Ramp Agents, Equipment Operators, and Ramp Transit Drivers working in

1 Defendant's Western Region (comprising the states of Alaska, Arizona, California, Colorado,
 2 Hawaii, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), during the period
 3 October 17, 1999 through the date of judgment in this action; and (2) a Minority Lower
 4 Management Class of all African American and Latino Operations Managers and other managers
 5 below the level of Senior Manager working in Defendant's Western Region during the period
 6 October 17, 1999 through the date of judgment in this action.

7 **A. Employee Class**

8 18. Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Sherman, Smith, and
 9 Stevenson are members of, and seek to represent, the Minority Employees Class.

10 19. The members of the Minority Employee Class identified herein are so
 11 numerous that joinder of all members is impracticable. By the end of 2003, FedEx Express had
 12 many tens of thousands of employees. Although the precise number of Minority Employees
 13 affected by the discriminatory practices alleged herein is currently unknown, it is far greater than
 14 can be feasibly addressed through joinder. The precise number is ascertainable from Defendant's
 15 records.

16 20. There are many questions of law and fact common to the Minority
 17 Employee Class, and these questions predominate over any questions affecting only individual
 18 members. Common questions of fact or law include, among others: (1) whether FedEx Express'
 19 policies or practices have a disparate impact on Minority Employees with respect to (a) initial job
 20 assignment, (b) compensation, (c) promotion, and (d) discipline; (2) whether any disparate impact
 21 is justified by business necessity; (3) whether the disparate impact constitutes a violation of
 22 Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e et seq.; (4) whether FedEx Express has
 23 intentionally discriminated against Minority Employees with respect to (a) initial job assignment,
 24 (b) compensation, (c) promotion, and (d) discipline; (5) whether FedEx Express has engaged in a
 25 pattern and practice of disparate treatment adverse to Minority Employees; (6) whether that
 26 disparate treatment violates Title VII of the 1964 Civil Rights Act; (7) whether defendant's
 27 intentional discrimination against Minority Employees violates 42 U.S.C. § 1981; (8) whether
 28 FedEx Express' policies or practices violate Section 12940, *et seq.*, of the California Government

1 Code, known as the Fair Employment and Housing Act (“FEHA”), as to Minority Employees
2 who have been employed or reside in California; and (9) whether injunctive relief and other
3 equitable remedies (including back pay and front pay) and compensatory and punitive damages
4 are warranted for the Minority Employee Class.

5 21. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
6 because FedEx Express has acted and/or refused to act on grounds generally applicable to the
7 Minority Employee Class, making appropriate declaratory and injunctive relief with respect to
8 Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Sherman, Smith, and Stevenson and the Minority
9 Employee Class as a whole. The members of the Minority Employee Class are entitled to
10 injunctive relief to end FedEx Express’ common, uniform, and unfair racially discriminatory
11 personnel policies and practices.

12 22. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
13 because common questions of fact and law predominate over any questions affecting only
14 individual members of the Minority Employee Class, and because a class action is superior to
15 other available methods for the fair and efficient adjudication of this litigation. The members of
16 Minority Employee Class have been damaged and are entitled to recovery as a result of FedEx
17 Express’ common, uniform, and unfair racially discriminatory personnel policies and practices.
18 FedEx Express’ has computerized payroll and personnel data that will make calculation of
19 damages for specific members of the Minority Employee Class relatively simple.

20 **B. Minority Lower Management Class**

21 23. Plaintiffs Satchell and Boykin are members of, and seek to represent, the
22 Minority Lower Management Class.

23 24. The members of the Minority Lower Management Class identified herein
24 are so numerous that joinder of all members is impracticable. By the end of 2003, FedEx Express
25 had many tens of thousands of employees. Although the precise number of Minority Lower
26 Managers affected by the discriminatory practices alleged herein is currently unknown, it is far
27 greater than can be feasibly addressed through joinder. The precise number is ascertainable from
28 Defendant’s records.

1 25. There are many questions of law and fact common to the Minority Lower
2 Management Class, and these questions predominate over any questions affecting only individual
3 members. Common questions of fact or law include, among others: (1) whether FedEx Express’
4 policies or practices have a disparate impact on Minority Lower Managers with respect to
5 (a) compensation, (b) promotion to senior management, and (c) discipline; (2) whether any
6 disparate impact is justified by business necessity; (3) whether the disparate impact constitutes a
7 violation of Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e et seq.; (4) whether FedEx
8 Express has intentionally discriminated against Minority Lower Managers with respect to
9 (a) compensation, (b) promotion to senior management, and (c) discipline; (5) whether FedEx
10 Express has engaged in a pattern and practice of disparate treatment adverse to Minority Lower
11 Managers; (6) whether that disparate treatment violates Title VII of the 1964 Civil Rights Act;
12 (7) whether defendant’s intentional discrimination against Minority Lower Managers violates
13 42 U.S.C. § 1981; (8) whether, as to Minority Lower Managers who have been employed or
14 reside in California, FedEx Express’ policies or practices violate Section 12940, *et seq.*, of the
15 California Government Code, known as the Fair Employment and Housing Act (“FEHA”); and
16 (9) whether injunctive relief and other equitable remedies (including back pay and front pay) and
17 compensatory and punitive damages are warranted for the Minority Lower Management Class.

18 26. The claims of Representative Plaintiffs Satchell and Boykin are typical of
19 the claims of the Minority Lower Management Class.

20 27. Representative Plaintiffs Satchell and Boykin will fairly and adequately
21 represent and protect the interests of the members of the Minority Lower Management Class.
22 Plaintiffs have retained counsel competent and experienced in complex class actions and
23 employment discrimination litigation.

24 28. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
25 because FedEx Express has acted and/or refused to act on grounds generally applicable to the
26 Minority Lower Management Class, making appropriate declaratory and injunctive relief with
27 respect to Plaintiffs Satchell and Boykin and the Minority Lower Management Class as a whole.
28 The members of the Minority Lower Management Class are entitled to injunctive relief to end

1 FedEx Express' common, uniform, and unfair racially discriminatory personnel policies and
2 practices.

3 29. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
4 because common questions of fact and law predominate over any questions affecting only
5 individual members of the Minority Lower Management Class, and because a class action is
6 superior to other available methods for the fair and efficient adjudication of this litigation. The
7 members of Minority Lower Management Class have been damaged and are entitled to recovery
8 as a result of FedEx Express' common, uniform, and unfair racially discriminatory personnel
9 policies and practices. FedEx Express' has computerized payroll and personnel data that will
10 make calculation of damages for specific members of the Minority Lower Management Class
11 relatively simple.

12 **STATEMENT OF FACTS APPLICABLE TO ALL CLAIMS**

13 **A. FedEx Express' Discriminatory Policies and Practices**

14 30. Defendant FedEx Express engages in a pattern and practice of highly
15 subjective decision making regarding employment matters that is discriminatory to Minority
16 Employees and Minority Lower Managers and is manifested in initial assignments (as to Minority
17 Employees only), promotions, compensation, and discipline. While Defendant has policies
18 designed to govern these matters, many of these policies involve uncontrolled subjective criteria
19 and/or are applied by Defendant in an arbitrary and capricious manner. As a result, racial biases
20 and stereotypes enter into Defendant's employment decisions.

21 31. Defendant's system of subjective and arbitrary decision making has an
22 adverse impact on Minority Employees and Minority Lower Managers relative to their non-
23 Minority peers with respect to (a) initial job assignment (as to Minority Lower Managers only);
24 (b) promotion to permanent and full-time positions and to management; (c) compensation; and
25 (d) discipline. This impact is not justified by business necessity. Even if it could be so justified,
26 less discriminatory alternatives exist that could equally serve any alleged necessity.

27 32. Defendant also engages in intentional discrimination against Minority
28 Employees and Minority Lower Managers with respect to (a) initial job assignment (as to

1 Minority Employees only); (b) promotion to permanent and full-time positions and to
2 management; (c) compensation; and (d) discipline through its system of subjective and arbitrary
3 decision making, as demonstrated by anecdotal and statistical evidence.

4 33. Defendant has discriminated against Minority Employees by use of a dual-
5 employment track. For example, both full-time and part-time employees fill Handler positions at
6 a facility. The full-time positions are more lucrative and provide employees with more
7 opportunities for advancement, greater job security, and greater pay and benefits. By contrast, the
8 part-time positions are less desirable because they offer lower wages, lesser benefits, changing
9 and inconsistent work hours, proportionately heavier responsibilities, and more difficult work
10 conditions. Defendant has a systematic pattern and practice of relegating qualified Minority
11 Employees to part-time jobs, with lesser job security, compensation, and opportunity for
12 advancement. Defendant typically reserves the full-time, permanent, higher wage positions for
13 non-Minority employees. Consistent with Defendant's long-standing discriminatory policies and
14 practices, Defendant typically hires Minority Employees only for entry level, part-time, and
15 casual positions.

16 34. Defendant also disproportionately fails to promote qualified Minority
17 Employees from part-time, casual positions to full-time and permanent positions at the same rate
18 as their similarly situated non-Minority counterparts. Even when FedEx Express does promote
19 Minority Employees from part-time, casual positions to full-time, permanent positions, it does not
20 promote them as quickly as their similarly situated non-Minority counterparts.

21 35. Virtually all Minority Employees of Defendant FedEx Express occupy
22 entry level, hourly positions. FedEx Express disproportionately fails to promote qualified
23 Minority Employees to lower management positions such as Operations Manager, and instead
24 disproportionately promotes similarly situated or less qualified non-Minority employees to those
25 positions.

26 36. The few Minority Employees who are able to break into the management
27 ranks are usually promoted by a small handful of Minority managers. These Minority managers,
28 however, are themselves often subjected to discriminatory practices that minimize their

1 opportunities for further advancement. Such practices include, for example, exclusion of
2 Minority managers from “informal” email buddy lists and social gatherings that are used to
3 communicate relevant operating procedures, discuss managerial issues, and post corporate
4 advancement opportunities.

5 37. FedEx Express disproportionately fails to promote the few qualified
6 Minority Operation Managers and other Minority Lower Managers to Senior Manager positions,
7 and instead disproportionately promotes similarly situated, or less qualified, non-Minority
8 Operations Managers or other non-Minority Lower Level Managers to Senior Manager positions.
9 Even when Minority Lower Managers are promoted to Senior Manager positions, they are
10 promoted less quickly than similarly situated, or less qualified, non-Minorities.

11 38. Plaintiffs are informed and believe that Minority Employees and Minority
12 Lower Managers are paid less than non-Minority employees who perform substantially similar
13 work and have similar or lesser skills and experience. Plaintiffs are further informed and believe
14 that non-Minority employees are more likely to be assigned to positions that pay better than
15 positions to which Minority Employees are assigned.

16 39. Plaintiffs are informed and believe that this discrimination in compensation
17 takes on several forms: requiring Minority Employees and Minority Lower Managers to perform
18 the job duties of higher positions without a commensurate change in their title or increase in pay;
19 paying Minority Employees and Minority Lower Managers less than non-Minority employees
20 with the same job title and job duties; providing Minority Employees with fewer desired overtime
21 hours than non-Minority employees with equal or less seniority; and not paying Minority
22 Employees the guaranteed minimum pay.¹

23 40. Defendant has also engaged in a longstanding, widespread and
24 discriminatory policy and practice of applying differential standards in determining whether to
25 subject an employee to disciplinary action. Minority Employees and Minority Lower Managers
26 are consistently reprimanded and disciplined for petty matters, and are disciplined for infractions

27 ¹ Defendant guarantees its part-time employees a minimum of 17½ hours to which they are entitled even if the
28 company does not have sufficient work to be performed. The number of hours out of the guaranteed minimum of
hours which an employee did not actually work are called “excess” minimum hours.

1 unsupported or contradicted by credible evidence. Non-Minority Employees are not reprimanded
2 or disciplined for similar matters, or for infractions which are not supported by credible evidence.

3 41. Defendant routinely terminates Minority Employees and Minority Lower
4 Managers who receive three forms of written discipline within a 12-month period, even if some
5 of the three are documented counselings or Online Compliment/Counselings ("OLCC")², rather
6 than formal warning letters. By contrast, Defendant does not automatically terminate non-
7 Minority employees and managers who are disciplined three times in a 12-month period. Where
8 non-Minorities have received three disciplinary actions in a 12-month period, Defendant has
9 allowed the non-Minority employee to continue his or her employment, has transferred the
10 employee, or has demoted the employee.

11 42. Defendant has condoned the discriminatory conduct of its managers by
12 failing to properly investigate formal complaints regarding discrimination, and by promoting
13 managers who engage in acts of discrimination or transferring them to other locations despite
14 repeated complaints (and in some cases, previous discrimination lawsuits) by Plaintiffs and other
15 Minority Employees and Minority Lower Managers.

16 43. This pattern of denying Minority Employees and Minority Lower
17 Managers equal assignments, promotions, training, and compensation and of over-disciplining
18 Minority Employees and Minority Lower Managers, is not the result of random or non-
19 discriminatory factors. Rather, it is the result of an ongoing and continuous pattern and practice
20 of intentional race discrimination in assignments, compensation, promotions, and discipline. It is
21 further the result of reliance on policies and practices that have an adverse impact on Minority
22 Employees which cannot be justified by business necessity, and for which alternative policies and
23 practices with less discriminatory impact could be utilized that would equally serve any asserted
24 business necessity. Plaintiffs are informed and believe that such policies and practices continue
25 up to and including the present and include, without limitation:

26 (a) Failure to consistently post job and promotional openings to ensure

27
28 ² OLCCs are verbal warnings accompanied by a notation in a company employee database that both employee and manager acknowledge in writing.

1 that all Minority Employees and Minority Lower Managers have notice of and opportunity to
2 seek advancement, higher compensation, overtime, or more desirable assignments and training;

3 (b) Reliance upon unweighted, arbitrary and subjective criteria (used
4 by a nearly all-non-Minority managerial workforce) in making job assignment, training,
5 performance review, compensation, promotion, and discipline decisions. Even where FedEx
6 policies state objective requirements, these requirements are often applied in an inconsistent
7 manner and ignored at the discretion of management;

8 (c) Reliance on racial stereotypes in making employment decisions
9 involving job assignments, promotions, compensation, discipline and training;

10 (d) Pre-selection and “grooming” of non-Minority employees for
11 promotion, favorable assignments, higher pay, and more desirable positions;

12 (e) Maintenance of largely racially-segregated job categories and
13 departments;

14 (f) Deterrence and discouragement of Minority Employees and
15 Minority Lower Managers from seeking advancement, training, favorable assignments and higher
16 paid, more desirable positions;

17 (g) Paying Minority Employees and Minority Lower Managers lower
18 compensation than similarly situated non-Minorities;

19 (h) Assigning Minority Employees to lower paying positions and
20 positions with lesser advancement potential than those given to non-Minorities (including part-
21 time and casual positions), and advancing Minority Employees more slowly from these positions
22 than similarly situated non-Minority employees; and

23 (i) Providing less training and support to Minority Employees and
24 Minority Lower Managers than that given to non-Minority employees and managers.

25 44. As a proximate result of the racially discriminatory employment practices
26 and other wrongful acts alleged herein, Plaintiffs and members of both classes have suffered loss
27 of income, loss of advancement and promotion, loss of career opportunity, and/or loss of
28 intangible job benefits. As a proximate result of the racially discriminatory employment policies,

1 practices and other wrongful acts alleged herein, Plaintiffs and members of both classes have
2 experienced pain, suffering, severe emotional and mental distress, shame, humiliation,
3 embarrassment, and related physical ailments.

4 45. Plaintiffs, and each of them, have experienced such racially discriminatory
5 employment practices and other racially discriminatory actions by Defendant including, without
6 limitation, the following practices and actions:

7 **B. FedEx Express' Operations**

8 46. The Plaintiffs to this action are, or have been, employed by Defendant
9 FedEx Express in its Western Region.

10 47. Defendant FedEx Express' Western Region includes the following states:
11 California, Oregon, Washington, Hawaii, Nevada, Alaska, New Mexico, Arizona, Utah, Colorado
12 and Wyoming. FEDERAL EXPRESS also has a Central Support Services District stationed in
13 Anchorage, Alaska, supporting Alaska.

14 48. Defendant employs uniform employment and personnel policies
15 throughout all its districts, regions, and/or divisions in the Western Region. Regardless of facility
16 or corporate division, there are uniform policies for employees, uniform "orientation" procedures,
17 and uniform salary, assignment, pay, training, promotion, and disciplinary policies. All facilities
18 are regularly audited for compliance with these uniform, company-wide policies and procedures.

19 49. Defendant operates numerous warehouse distribution centers in California
20 and the United States. Distribution facilities are standardized and comprised of a large warehouse
21 to which packages are delivered, sorted, stored for later delivery or pick-up, and shipped.

22 50. Defendant operates several shifts at its major distribution facilities, during
23 which packages arrive and depart the warehouse. Many thousands of packages may be handled
24 and sorted on the Line (the conveyor belt used to move packages inside a station) per hour during
25 a shift at a mid- to large-sized facility. An individual package may weigh anywhere from a few
26 ounces to 75 pounds. Crates may weigh up to 200 pounds.

27 51. Defendant employs numerous Handlers to lift, sort, scan and stack
28 packages in buckets, cans and delivery vehicles. In addition, several of the Handlers are

1 designated as “Lead Handler” and are responsible for the coordination and efficient operation of
2 other Handlers in processing packages along a particular part of the Line.

3 52. In addition to Handlers, Defendant employs Couriers, who operate the
4 delivery vehicles and deliver and pickup packages from customers; Shuttle Drivers, who drive
5 shuttles or large tractor trucks to pick up significant numbers of packages from institutional
6 customers and to make trips to the airport and other distribution facilities; Customer Service
7 Agents, who interact with the public and handle customer pickups and complaints; Dispatchers,
8 who communicate with Couriers; Operations Managers, who supervise the various workgroups or
9 job classes in the Facility during a shift; and Station Managers, who are responsible for the entire
10 operation of a Facility; and Cargo Handlers, Ramp Agents, Equipment Operators, and Ramp
11 Transit Drivers to load and unload packages and heavy freight, to transfer the cargo to and from
12 the cargo airplanes to the onsite facility for sorting or storage, and to transfer the cargo to and
13 from the large freight vehicles or smaller shuttles that transport the packages to the various
14 distribution facilities in the area, or to their ultimate destinations.

15 53. The Regions for Defendant FedEx Express are headed by Vice Presidents
16 of Operations. The Districts for FedEx Express are headed by District Managers who report
17 directly to the Vice Presidents of Operations. The individual facilities and terminals are run by
18 Station Managers or senior managers, who report directly to District Managers. The Vice
19 Presidents of Operations, the District Managers, and the Senior/Station managers form the senior
20 management ranks for Defendant. The various operations managers at each facility form the
21 lower management ranks.

22 54. The Vice President of Operations, the District Managers and Station
23 Managers form the senior management ranks in a region. The various operations managers at
24 each facility form the lower management ranks.

25 55. Defendant has limited the senior and lower management ranks primarily to
26 non-Minorities in the Western Region. Defendant principally promotes from within and
27 maintains a work force with significant numbers of Minority Employees in lower level jobs.
28 Defendant, however, employs only a sparse number of Minorities in its management ranks.

1 Plaintiffs are informed and believe, and based thereon allege, that Defendant has never employed
 2 a Minority as a Vice President of Operations in the Western Region. Plaintiffs are informed and
 3 believe that even when Minority Employees are promoted, on average they are advanced later,
 4 and then more slowly, than similarly situated non-Minority employees.

5 56. As a result of the scarcity of Minority managers in management positions
 6 in the Western Region, the managerial ranks within the District are commonly known as the “Ole
 7 Boys Network” or the “Country Club.” Racial epithets have often been used by Defendant’s
 8 Senior Managers.

9 57. The racial composition of Defendant’s workforce with respect to its senior
 10 and lower management ranks is grossly disproportionate to the available pool of Minority
 11 workers who are qualified for positions in the senior and lower management ranks of Defendant’s
 12 business.

13 **ALLEGATIONS OF NAMED PLAINTIFFS**

14 **I. MINORITY EMPLOYEE CLASS**

15 **Valerie Brown**

16 **A. Class Claims**

17 58. Plaintiff Brown was hired by Defendant in approximately 1982 as a
 18 Customer Service Agent at the distribution facility in Sunnyvale Facility and transferred to the
 19 Milpitas Facility in approximately 1987 upon closure of the former facility. In approximately
 20 1989, Defendant employed Plaintiff as the sole African American Courier at the Milpitas Facility.

21 59. Defendant gave Plaintiff Brown written, disciplinary notations regarding
 22 issues for which non-Minority Couriers were not criticized, negatively affecting her performance
 23 reviews and promotability. For example, Plaintiff was reprimanded for coming in late, whereas
 24 non-Minority Couriers were not disciplined when they came in late.

25 60. Plaintiff Brown made numerous complaints to the Station Manager and to
 26 human resources regarding this racially discriminatory treatment. However, Defendant did not
 27 take any action regarding the complaints, apart from questioning Plaintiff.

28 61. In 1995, Defendant opened the current Santa Clara Facility and transferred

1 many of the service routes that had formerly been operated from the Milpitas Facility to the new
2 facility. In allocating the Courier routes between the two facilities, Defendant divided Plaintiff's
3 route equally between the two centers. Plaintiff's route was the only service route that was split.
4 All the routes for non-Minority Couriers were kept intact. In order to keep her service area,
5 Plaintiff was required to transfer to the Santa Clara Facility as a part-time courier, thus losing the
6 higher full-time pay. No non-Minority employee courier was required to convert to part-time
7 status or to give up his or her route.

8 62. Defendant engaged in race-based discrimination by passing over Plaintiff
9 Brown in favor of more junior, less qualified non-Minority employees for various promotions and
10 higher paying positions. In the early 1990s, Plaintiff applied for several sales representative
11 positions that defendant had posted to employees. Plaintiff was not hired for any of the sales
12 representative positions despite her long service with Defendant. Instead, Defendant hired
13 numerous non-Minority recent graduates, with little or no experience, and other non-Minority
14 employees from within the company. With her seniority, Plaintiff should have been hired; the
15 advertisements for the positions indicated that prior sales experience was not a requirement since
16 the Company would provide necessary training.

17 63. Similarly, in 2000, Plaintiff applied for two higher paying Dispatch
18 positions at the Oakland Station and the Oakland Hub. However, Plaintiff did not get either
19 position. Once again, Defendant passed over her in favor of more junior, less qualified non-
20 Minority employees.

21 64. In January 2001 and February 2002, Plaintiff Brown applied for Operations
22 Manager positions at the Santa Clara Facility and the Milpitas Facility, respectively. In each case,
23 Defendant promoted a non-Minority to the positions despite the fact that the non-Minorities had
24 significantly less seniority than Plaintiff and only limited Courier experience. Plaintiff had both
25 Courier and Customer Service Agent experience and had been with the Company since 1982.

26 **B. Individual Claims for Work Conditions, Harassment, and Retaliation**

27 65. While Plaintiff was a Courier at the Milpitas Facility, Defendant
28 discriminated against Brown on the basis of race, saddling her with greater responsibilities than

1 her non-Minority colleagues and thus making it more difficult for her to perform as well as them.
2 Defendant required Plaintiff to deliver packages on her route, as well as perform overflow
3 responsibilities and make additional trips to pick up freight left by other Couriers. Defendant did
4 not require Plaintiff's non-Minority colleagues to perform these additional duties.

5 66. Defendant harassed Plaintiff Brown by criticizing her in a manner that was
6 publicly embarrassing and humiliating. Instead of criticizing Plaintiff in the privacy of an office
7 as they did with non-Minority employees, Defendant would stop the conveyor belt to draw
8 attention and criticize Plaintiff while she was working among others on the Line.

9 67. In July 2002, Defendant retaliated against Plaintiff Brown for filing a racial
10 discrimination complaint with the Department of Fair Employment and Housing. In response to
11 Plaintiff's complaint, Defendant disciplined Plaintiff more harshly than her non-Minority
12 colleagues. Defendant disciplined Plaintiff in response to a customer complaint but did not
13 discipline the non-Minority employees also mentioned in the complaint.

14 68. In addition to the foregoing, Plaintiff Brown has experienced disparate
15 treatment on the basis of race with respect to many employment practices by Defendant.

16 69. Plaintiff Brown filed a timely charge of discrimination with the EEOC on
17 April 16, 2003, attached hereto as Exhibit "A," which was automatically cross-filed with the
18 DFEH. Plaintiff Brown has received Notices of Right to Sue from the EEOC and from the
19 DFEH.

20 **Rick Gonzales**

21 **A. Class Claims**

22 70. Plaintiff Rick Gonzales is a Latino male who has been employed by
23 Defendant FedEx Express as a Courier since May 1988.

24 71. Defendant has undermined Plaintiff Gonzales' attempts to attain
25 management positions, while actively supporting non-Minority candidates in their efforts to
26 secure management positions. Defendant never spoke to Plaintiff Gonzales about the possibility
27 or process of entering management, although he had expressed his desire to advance to
28 management several times. Further, Defendant did not offer him the support provided non-

1 Minority employees in preparing for management, such as covering shifts so that management
2 hopefuls could participate in management training classes. Defendant's discriminatory
3 management selection practices discouraged Plaintiff Gonzales from applying for management
4 positions.

5 72. Plaintiff Gonzales observed that non-Minority employees were promoted
6 to management faster than Minority Employees, and that management steered non-Minority
7 employees into management positions. For example, during Plaintiff's 5-year tenure at
8 Defendant's Santa Fe Station location, several non-Minority employees became managers, while
9 only one Minority entered management. The Minority Employees were consistently given the
10 worst shifts, working at night with the newest employees. Plaintiff observed less senior non-
11 Minority employees being promoted to management before him even though he was equally if
12 not more qualified for the positions that were open, but he did not observe his Minority peers
13 attain management positions.

14 73. Defendant has further discriminated against Plaintiff Gonzales by engaging
15 in discriminatory employment practices intended to and/or having the effect of undermining
16 Plaintiff's efforts to advance into Defendant's management ranks. In August, 2002, Defendant
17 refused to allow Plaintiff to apply for management positions because his performance review
18 rating was 3/10 of a point below the alleged cutoff. Plaintiff believes that Defendant manipulates
19 such subjective criteria in order to control who may become eligible for management.

20 74. Defendant has discriminated against Plaintiff Gonzales by disciplining
21 Plaintiff for infractions for which non-Minority employees were not similarly disciplined. For
22 example, Plaintiff has received multiple OLCC's and warning letters for infractions such as
23 incorrect calculations, packages not returned, and timecard errors. In contrast, his non-Minority
24 peers were rarely disciplined for such conduct.

25 **B. Individual Claim for Failure to Rehire from Disability**

26 75. Defendant discriminated against Plaintiff Gonzales by failing to assisting
27 him in securing a suitable position upon return from workers compensation leave. After Plaintiff
28 Gonzales was injured on the job for the second time with a severe lower back injury, he required

1 an extended leave. When he prepared to return to work, Defendant displaced him from his prior
2 position and refused to identify a suitable position for him anywhere in Southern California,
3 despite Plaintiff's 12-year tenure and his offer to accept any position available, including those
4 requiring relocation to Los Angeles or Las Vegas. Instead, Defendant sent Plaintiff Gonzales a
5 termination letter on approximately September 13, 2002. Defendant has routinely assisted non-
6 Minority employees who have suffered permanent and temporary disabilities to find suitable job
7 opportunities with FedEx.

8 76. When Plaintiff Gonzales called Defendant recently, he was informed that
9 his status was not terminated but instead "inactive."

10 77. In addition to the foregoing, Plaintiff Gonzales has experienced disparate
11 treatment on the basis of race with respect to many employment practices by Defendant.

12 78. Plaintiff Gonzales filed a timely charge of discrimination with the EEOC
13 on April 15, 2003, attached hereto as Exhibit "B," which was automatically cross-filed with the
14 DFEH. Plaintiff Gonzales has received Notices of Right to Sue from the EEOC and from the
15 DFEH.

16 **Cynthia Guerrero**

17 79. Defendant hired Plaintiff Guerrero in approximately 1995. Plaintiff
18 worked for Defendant in Commerce City and Santa Fe Springs, California as a Customer Service
19 Agent and as a Courier.

20 80. Among other things, Defendant discriminated against Plaintiff Guerrero by
21 failing to promote her to positions for which she was qualified and instead promoting less senior,
22 less qualified non-Minority employees over her, and/or by paying Plaintiff Guerrero less than
23 non-Minority employees, even though Plaintiff has comparable responsibilities and more
24 seniority and work experience. Plaintiff Guerrero was paid at the Courier/Handler rate until late
25 2002, even though she was performing the work of a regular Courier. The difference in pay
26 between the two positions is about \$1/hour. The difference in job responsibilities is that
27 Courier/Handlers cannot exceed 8 stops per hour, while Couriers can. Plaintiff Guerrero was
28 often doing 18 stops per hour.

1 81. Upon beginning to perform the duties of a Courier, Plaintiff Guerrero
2 asked Defendant when she would be upgraded to Courier pay. Defendant told Plaintiff she could
3 not be upgraded immediately because of a hiring freeze, but that she wouldn't have to wait more
4 than a month. In fact, Plaintiff was not upgraded until late 2002, after she filed her EEOC charge.
5 Meanwhile, Plaintiff's non-Minority colleagues did receive the upgrade.

6 82. Defendant also discriminated against Plaintiff Guerrero by reducing her
7 work hours, thus negatively affecting her compensation, while increasing the work hours given to
8 non-Minority employees with less seniority.

9 83. Defendant further discriminated against Plaintiff Guerrero by issuing
10 formal disciplinary actions against her for petty or trivial matters, or matters unsupported or
11 contradicted by credible evidence. Defendant has given Plaintiff Guerrero over 50 calendar
12 notations for trivial matters such as failure to pull an airbill copy or forgetting to sign her time
13 card, for which non-Minority employees are not disciplined. In fact, Defendant routinely
14 overlooks late arrival, no-shows, and other more significant breaches of conduct by non-Minority
15 employees.

16 84. Defendant has systematically discriminated against the employees in
17 Plaintiff Guerrero's workgroup, called Loop 9, all of whom are Minority Employees. Everyone
18 that has been fired at the Santa Fe Springs facility has been from her workgroup.

19 85. In addition to the foregoing, Plaintiff Guerrero has experienced disparate
20 treatment on the basis of race with respect to many employment practices by Defendant.

21 86. Plaintiff Guerrero filed timely charges of discrimination with the EEOC on
22 June 13, 2002 and June 18, 2003, attached hereto as Exhibit "C," which were automatically
23 cross-filed with the DFEH. Plaintiff Guerrero has received Notices of Right to Sue from the
24 EEOC and from the DFEH.

25 **Rachel Hutchins**

26 87. Plaintiff Rachel Hutchins is an African American woman currently
27 employed by Defendant as a Handler in Bakersfield, California. Plaintiff worked for Defendant
28 from December 1995 through April 1996, and again since March 2001.

1 88. Defendant hired and/or promoted less senior, less experienced non-
2 Minority individuals to permanent or full-time positions before Defendant gave Plaintiff a
3 permanent and/or full-time position. Plaintiff Hutchins has remained a casual Handler during her
4 more than two and a half years with Defendant, while non-Minority employees with less seniority
5 have repeatedly been promoted into permanent positions before her.

6 89. Defendant has passed over Plaintiff in favor of less or equally qualified
7 non-Minority individuals in filling positions for which Plaintiff has applied. Since approximately
8 October 2002, Plaintiff Hutchins has sought a position as a Customer Service Agent (CSA).
9 From approximately May or June 2002 to April 2003, Plaintiff Hutchins performed the duties of a
10 Customer Service Agent, without a commensurate change in title or salary. Although Customer
11 Service Agent positions have become available, Defendant has not placed Plaintiff Hutchins in
12 these positions.

13 90. Plaintiff Hutchins has complained several times to Defendant about its
14 failure to promote her to a Customer Service Agent position. Defendant has offered various
15 excuses for this failure, including that Plaintiff may not be promoted from Casual status.
16 However, Defendant has promoted non-Minority employees to this position from Casual status.
17 In one such instance, two Customer Service Agent positions became available in approximately
18 November 2002, and Defendant informed Plaintiff Hutchins that she would receive one of the
19 positions. Instead, Defendant placed in one of the positions a non-Minority employee who had no
20 experience as a Customer Service Agent, whom Plaintiff Hutchins herself had trained, and who
21 had quit her job a few weeks previously.

22 91. Most recently, in April 2003, Defendant informed Plaintiff that she would
23 receive the next Customer Service Agent position that opened, without being required to apply.
24 Since approximately May 2003, a Customer Service Agent position has been available. Although
25 Plaintiff is qualified, Defendant still has not placed Plaintiff Hutchins in a Customer Service
26 Agent position.

27 92. Defendant has discriminated against Plaintiff Hutchins with respect to
28 compensation by paying her as a Handler, while requiring her to perform the duties of a Customer

1 Service Agent for the past eight months. Defendant refuses to offer Plaintiff Hutchins a
2 Customer Service Agent position, or to change her title or compensation to reflect her additional
3 duties.

4 93. Defendant has also discriminated against Plaintiff Hutchins with respect to
5 compensation by failing to pay her overtime for hours worked on Saturday over an approximately
6 two month period. Plaintiff Hutchins understands that according to FedEx policy, temporary and
7 casual employees are to be paid at the rate of one and a half times their hourly rate for work
8 performed on Saturday. Plaintiff is informed and believes, and on that basis alleges, that non-
9 Minority employees have been paid correctly for such overtime. Defendant has discriminated
10 against Plaintiff Hutchins with respect to compensation by allowing her to work fewer hours than
11 similarly situated non-Minority employees.

12 94. In addition to the foregoing, Plaintiff Hutchins has experienced disparate
13 treatment on the basis of race with respect to many employment practices by Defendant.

14 95. Plaintiff Hutchins filed a timely charge of discrimination with the EEOC
15 on May 27, 2003, attached hereto as Exhibit "D," which was automatically cross-filed with the
16 DFEH. Plaintiff Hutchins has received Notices of Right to Sue from the EEOC and from the
17 DFEH.

18 **Daniel Sherman**

19 **A. Class Claims**

20 96. Defendant hired Plaintiff Sherman in approximately February 1999 as a
21 casual, part-time Handler at the Sunnyvale Facility. Despite repeated requests for a permanent
22 position, Defendant hired and/or promoted many less senior non-Minority individuals to
23 permanent positions before Defendant gave Plaintiff a permanent position.

24 97. Despite Plaintiff's distinguished service, Defendant has repeatedly passed
25 over Plaintiff and refused to promote him to full-time, higher paying positions for which he has
26 applied, including several available Courier and Ramp Agent positions. Instead, Defendant
27 promoted non-Minority employees with less seniority and experience. Plaintiff has trained, and
28 continues to train, many of the non-Minority employees who have obtained full-time, higher

1 paying positions at his expense.

2 98. Defendant discriminated against Plaintiff Sherman by paying him less than
3 non-Minority employees, even though Plaintiff has comparable responsibilities and more
4 seniority and work experience.

5 **B. Individual Claim for Working Conditions and Harassment**

6 99. Defendant discriminated against Plaintiff Sherman by requiring him to
7 perform the most difficult and physically strenuous jobs at the facility, and to do so with the help
8 of fewer co-workers than non-Minority employees. Further, when operations are very busy or a
9 station is overwhelmed, Defendant repeatedly fails to provide Plaintiff with the additional
10 assistance provided to non-Minority employees who request help.

11 100. In November 2001, Plaintiff Sherman was designated a Lead Handler.
12 However, Defendant did not decrease the physical demands of his job or increase his
13 compensation; instead, he was simply required to do them in addition to new supervisory
14 responsibilities. Despite seeing that Plaintiff was consistently overworked, Defendant repeatedly
15 refused to provide support to him as a Lead Handler. By contrast, Defendant promptly responded
16 to requests for additional assistance that came from non-Minority employees and Lead Handlers.

17 101. In addition to the foregoing, Defendant has engaged in numerous other
18 taunting, harassing and discriminatory practices in order to create a hostile work environment for
19 Plaintiff Sherman. For example, Gary Meek, a non-Minority manager, has consistently yelled at
20 Plaintiff, and on occasion has aggressively pointed his finger in Plaintiff's face or in his direction.
21 Meek has engaged in such behavior toward Plaintiff in front of other employees so as to
22 embarrass and humiliate Plaintiff. Meek has further condoned similar yelling and pointing by
23 non-Minority Lead Handlers, when such behavior has been directed at Plaintiff or other African
24 Americans. By contrast, Defendant has not permitted yelling, finger pointing or other
25 disrespectful gestures towards non-Minority employees. Defendant has also explicitly informed
26 Plaintiff that as a Lead, he should not use yelling or pointing to reprimand the colleagues working
27 in his group.

28 102. In addition to the foregoing, Plaintiff Sherman has experienced disparate

1 treatment on the basis of race with respect to many employment practices by Defendant.

2 103. Plaintiff Sherman filed a timely charge of discrimination with the EEOC on
3 August 15, 2003, attached hereto as Exhibit "E," which was automatically cross-filed with the
4 DFEH. Plaintiff Sherman has received Notices of Right to Sue from the EEOC and the DFEH.

5 **Kelvin Smith, Sr.**

6 **A. Class Claims**

7 104. Defendant hired Plaintiff Smith in approximately November 1989 as a
8 part-time Courier at the Santa Clara Facility.

9 105. Defendant consistently passed over Plaintiff in favor of less or equally
10 qualified non-Minorities in filling management and other positions of responsibility for which
11 Plaintiff applied. In many cases, Plaintiff had to continue training the promoted employees in
12 their new management responsibilities.

13 106. From April 2002 through July 2002, Plaintiff Smith acted as Operations
14 Manager for PM Sort Operations at his Facility. His duties included closing down the facility,
15 covering sick calls, enlisting Couriers to help loading, assuring that freight got on shuttles in time,
16 guiding the movement of trucks within the Facility, and coordinating the activities of Handlers,
17 Loaders and Dispatchers. The only management function that Plaintiff did not perform was
18 providing performance reviews. Repeatedly, Plaintiff requested that Defendant promote him to
19 the open Operations Manager position. Defendant refused to promote Plaintiff to the position.
20 However, Defendant has previously promoted non-Minority employees to Operations Manager
21 who, as in Plaintiff's case, had performed the responsibilities of the position in the absence of a
22 manager. Defendant has promoted Plaintiff's non-Minority colleagues who have not participated
23 in or completed ASPIRE to management positions.

24 107. Defendant undermined Plaintiff Smith's efforts to attain management
25 positions while actively supporting non-Minority candidates in their efforts to secure management
26 positions. Plaintiff participated in the ASPIRE management training program, successfully
27 completed the program's required tests and peer assessments, and not only met but exceeded the
28 performance review requirements. However, Defendant failed to allow Plaintiff to complete the

1 final part of the program, an oral examination that had to be scheduled by management. From
2 April 2002 through July 2002, Plaintiff's managers ignored Plaintiff's repeated requests to take
3 the oral examination. By contrast, Defendant has consistently assisted non-Minority ASPIRE
4 participants in completing the program.

5 108. Defendant discriminated against Plaintiff Smith by paying Plaintiff less
6 than less senior and/or similarly situated non-Minority employees. Defendant paid Plaintiff less
7 than less experienced non-Minority Lead Handlers, even when Plaintiff was required to perform
8 management duties for the PM operations.

9 109. Defendant provided inferior training to Plaintiff Smith than to similarly
10 situated non-Minority employees. While Plaintiff was acting as an Operations Manager from
11 April 2002 to July 2002, Defendant failed to provide Plaintiff with the level of training provided
12 to Plaintiff's non-Minority peers with respect to particular operational indices in Plaintiff's
13 facility.

14 110. Defendant discriminated against Plaintiff Smith by disciplining Plaintiff for
15 infractions for which non-Minority employees were not similarly disciplined. In February 2002,
16 Defendant issued Plaintiff Smith his first warning letter for administering a makeshift procedure
17 to assure that the Facility would meet performance objectives. Plaintiff Smith was also
18 suspended for a week. Plaintiff had performed the procedure only upon directives from his non-
19 Minority Manager and Station Manager. However, Defendant did not discipline, either verbally
20 or with warning letters, the two non-Minority managers responsible for implementing the Astra
21 Sops procedure. African American Plaintiff Satchell was the only other person disciplined in the
22 matter. Similarly, Defendant has not disciplined non-Minority employees for actions taken as a
23 result of management directives.

24 111. In May 2002, Plaintiff Smith was again unfairly disciplined when a delay
25 caused freight to arrive late at the ramp. The non-Minority manager responsible for the delay was
26 not disciplined.

27 **B. Individual Claims for Termination and Retaliation**

28 112. In July 2002, in retaliation for Plaintiff Smith's filing of a complaint with

1 the Department of Fair Employment and Housing for racial discrimination and harassment,
2 Defendant wrongfully terminated Plaintiff Smith for a trivial time card oversight that had no
3 practical impact on Plaintiff's wages and that was identified on the same day before any
4 processing. Defendant routinely allows non-Minority employees or managers to correct
5 identified mistakes on timecards.

6 113. In this particular case, Plaintiff Smith failed to clock an authorized ten-
7 minute break to collect his children from daycare. Plaintiff's Station Manger, upon seeing
8 Plaintiff with his children, took it upon herself to instruct Plaintiff's manager to check his
9 timecard to see if Plaintiff had clocked his break. The Station Manager did not permit Plaintiff to
10 correct the mistake, even though non-Minority employees routinely correct mistakes on time
11 cards. Non-Minority Employees also routinely take breaks without indicating them by time codes
12 on their time cards. Defendant does not strictly police every movement of non-Minority
13 employees, nor do Station Managers concern themselves with such employee matters that are
14 more properly handled by an Operations Manager. Finally, Defendant is liberal in
15 accommodating childcare concerns of non-Minority employees, especially when such
16 accommodation has, as in the case of Plaintiff, no material impact on the employee's job
17 performance.

18 114. In August 2002, Defendant refused to rehire Plaintiff Smith to his position
19 as Lead Handler when it upheld its discriminatory discipline and wrongful termination actions
20 against him. Plaintiff had filed an internal discrimination complaint, as well as a GFT request in
21 connection with his discriminatory discipline and wrongful termination claims dating from
22 February 2002 through Plaintiff's termination in July 2002. As part of his appeal, Plaintiff
23 submitted facts supporting his claims of differential treatment and discrimination at the hands of
24 Defendant. Defendant has overturned unfair actions and rehired and non-Minority employees
25 upon the basis of much less credible information than that provided by Plaintiff.

26 115. In addition to the foregoing, Plaintiff Smith has experienced disparate
27 treatment on the basis of race with respect to many employment practices by Defendant.

28 116. Plaintiff Smith filed a timely charge of discrimination with the EEOC on

1 June 24, 2003, which was automatically cross-filed with the DFEH, and filed a separate timely
2 charge with the DFEH on July 22, 2002. These charges are attached hereto as Exhibit "F."
3 Plaintiff Smith has received Notices of Right to Sue from the EEOC and from the DFEH.

4 **Ken Stevenson**

5 **A. Class Claims**

6 117. Plaintiff Stevenson is an African American male currently employed by
7 Defendant as a Courier in Santa Fe Springs, California. Plaintiff Stevenson began working for
8 Defendant in approximately May 1997 as a casual, part-time Courier.

9 118. Defendant has undermined Plaintiff Stevenson's efforts to attain
10 management positions, while actively supporting non-Minority employees in their attempts to
11 enter into management. Plaintiff Stevenson has sought to apply for promotion more than ten
12 times, but has been denied each time. Rather than respond to Plaintiff Stevenson's multiple
13 efforts to secure a management position, Defendant has offered baseless excuses for their failure
14 to promote him. For example, Senior Manager Mike Smith told Plaintiff Stevenson that he must
15 complete management classes, but when Plaintiff indicated his willingness to begin management
16 classes, Smith postponed the classes, and then only held them intermittently. On other occasions,
17 Defendant has told Plaintiff there is a "hiring freeze." Meanwhile, Defendant has promoted other
18 less senior non-Minority employees over Plaintiff Stevenson, such as Tim Becker,
19 notwithstanding the fact that Plaintiff Stevenson received a higher management assessment.

20 119. Defendant has also required Plaintiff to attend management classes on his
21 own time, while non-Minority employees, such as Becker and Michael Rose, are allowed to do
22 them during work time.

23 120. Smith further told Plaintiff Stevenson that he would never be a manager as
24 long as Smith worked at the facility. Plaintiff's co-workers have told him they have heard similar
25 comments from Smith and others about Plaintiff Stevenson.

26 121. Defendant has discriminated against Plaintiff Stevenson by disciplining
27 Plaintiff for infractions for which non-Minority employees were not similarly disciplined. For
28 example, Defendant has disciplined Plaintiff Stevenson for failing to tuck in his shirt, but

1 Defendant refuses to purchase shirts big enough for Plaintiff Stevenson. Defendant has further
 2 used such petty infractions as barriers to Plaintiff Stevenson's promotion into management. For
 3 example, on May 8, 2003, Defendant informed Plaintiff Stevenson that he could not apply for a
 4 vacant manager position because his socks were too short. When Plaintiff Stevenson pointed out
 5 that Mike Aroz, a non-Minority employee, wore his socks in an identical fashion, Defendant
 6 simply instructed Aroz to change his socks, but did not prevent him from applying for the
 7 manager position. Aroz became a manager approximately two weeks later.

8 **B. Individual Claim for Harassment**

9 122. Defendant has used, or permitted others to use, offensive racial epithets in
 10 Plaintiff Stevenson's workplace. For example, when Plaintiff Stevenson's car was stolen,
 11 Operations Manager Shelley Humphrey stated, "You people drive those kind of cars." When
 12 Plaintiff Stevenson reported the comment to his supervisor, Roger Fleud, Fleud said, "We all
 13 have a little racism in us." When Plaintiff Stevenson filed an internal EEO complaint about these
 14 comments, Defendant retaliated against him by further blocking him from being promoted to
 15 management.

16 123. In addition to the foregoing, Plaintiff Stevenson has experienced disparate
 17 treatment on the basis of race with respect to many employment practices by Defendant.

18 124. Plaintiff Stevenson filed a timely charge of discrimination with the EEOC
 19 on June 13, 2002, attached hereto as Exhibit "G," which was automatically cross-filed with the
 20 DFEH. Plaintiff Stevenson has received Notices of Right to Sue from the EEOC and from the
 21 DFEH.

22 **II. MINORITY LOWER MANAGEMENT CLASS**

23 **Derrick Satchell**

24 **A. Class Claims**

25 125. Plaintiff Satchell was hired by Defendant FedEx Express in approximately
 26 June 1992 as a part-time Handler at Defendant's Facility in Santa Clara, California. Despite
 27 repeated requests by Plaintiff for full-time employment, Defendant hired and/or promoted less
 28 senior, less experienced non-Minority individuals to Courier and other full-time positions before

1 Defendant gave Plaintiff a full-time position.

2 126. Once Plaintiff Satchell finally obtained a position as an Operations
3 Manager, Defendant undermined Plaintiff Satchell's efforts to advance within management, while
4 actively supporting his non-Minority peer managers in their efforts to advance within
5 management. Defendant discriminated against Plaintiff Satchell by failing to advance or promote
6 Plaintiff Satchell from a Level 25 to Level 26 Operations Manager during his employment with
7 the Company. Plaintiff had satisfied all the requirements for a Level 26 promotion, including
8 having been in a Level 25 manager position for over 18 months and having received successive
9 performance reviews in excess of 3.0. By contrast, Defendant promoted numerous non-Minority
10 Operations Managers to Level 26 who joined management after Plaintiff and had received equal
11 or lower performance reviews.

12 127. Defendant also consistently issued formal disciplinary actions against
13 Plaintiff Satchell for petty or trivial matters for which non-Minority employees were not
14 disciplined, thus lowering Plaintiff's performance reviews and rendering him ineligible for
15 promotion.

16 128. Defendant excluded Plaintiff Satchell from "informal" email buddy lists
17 used by Regional, District and Station Managers to communicate relevant operating procedures
18 and corporate advancement opportunities and to informally discuss managerial issues.

19 129. Defendant discriminated against Plaintiff Satchell by paying Plaintiff less
20 than less senior and/or similarly situated non-Minority employees. Throughout Plaintiff's
21 employment with Fedex, Defendant paid Plaintiff Satchell less than non-Minority managers even
22 though Plaintiff had comparable responsibilities and more seniority and management experience.

23 130. In approximately December 1999, when Plaintiff Satchell was Courier
24 Operations Manager, Plaintiff received his first warning letter for excessive late deliveries by
25 Couriers on Mondays. Defendant disciplined Plaintiff despite the fact that the problem dated
26 back to a prior Operations Manager's tenure and that the late deliveries were occurring only on
27 Plaintiff's scheduled day off. Defendant has not reprimanded non-Minority managers, much less
28 given warning letters, where the non-Minorities were not directly responsible for the infraction.

1 In addition, Defendant had not disciplined the non-Minority manager who supervised the
2 workgroup prior to Plaintiff.

3 131. In approximately August 2001, Defendant disciplined Plaintiff Satchell for
4 insubordination for failure to submit, in a timely manner, an action plan for correcting a
5 deficiency in his operations. Plaintiff failed to submit the action plan on time because Defendant
6 had not properly notified Plaintiff of his need to submit the Plan. Plaintiff was required to work
7 through the night to prepare the plan and submitted it a day late. Defendant disciplined Plaintiff
8 even though Plaintiff had proof that other non-Minority managers were also failing in the cited
9 area, but were not required to submit similar Action Plans and were not otherwise disciplined.

10 132. Defendant disciplined Plaintiff Satchell again in November 2001 in
11 connection with his performance review. Defendant gave Plaintiff a warning letter after rating
12 Plaintiff's performance as 1.0 in one area of the review due to Plaintiff's group's failure to
13 improve in that area. Plaintiff's Senior Manager, Christopher Matthews, refused to alter the low
14 rating when Plaintiff produced emails from Matthews commending Plaintiff's group for
15 improvement in the area in question, and stating "excellent job; now you only need to maintain
16 it." Defendant's personnel policy states that disciplinary letters should not be issued where only
17 one or two areas of a review are deficient; a warning letter is warranted only if an entire
18 performance review is 1.0 or below. Defendant does not issue warning letters to non-Minority
19 managers regarding performance reviews unless the entire review is unsatisfactory. Further,
20 Defendant does not issue warning letters to non-Minorities who provide evidence contradicting
21 an allegation of unsatisfactory performance.

22 133. On December 1, 2001, Plaintiff met with District Director Steven Seymour
23 regarding the warning letter. Seymour assured Plaintiff Satchell that the letter would not be
24 entered in the system. Based on Seymour's assurance, Plaintiff did not pursue the guaranteed fair
25 treatment ("GFT") process further. When Defendant terminated Plaintiff's employment in April
26 2002 for three active, documented disciplinary actions, the warning letter in question was counted
27 toward the three.

28 134. In November 2001, Defendant gave Plaintiff an OLCC because he had

1 failed to cancel excess minimum hour pay for Couriers in his group who had not actually worked
2 the minimum number of hours. At the time, Plaintiff informed Defendant that canceling the
3 minimum without a waiver would violate policy. In December 2001, Seymour and Matthews
4 informed managers at the Santa Clara Facility that they wanted excess minimum hours cancelled
5 regardless of waivers. Again, Plaintiff objected, citing policy, but cancelled the hours anyway.
6 Plaintiff was issued a warning letter, however, because he inadvertently failed to cancel the
7 excess minimum hours of a few couriers. Whereas Defendant issued Plaintiff a warning letter for
8 his inadvertent failure to cancel payment for excess minimum hours, Defendant refused to issue
9 warning letters to non-Minority managers, such as Paul Birkenbach, who also failed a second
10 time to cancel excess minimum hours.

11 135. Defendant provided inferior training to Plaintiff Satchell than similarly
12 situated non-Minority employees, adversely affecting his ability to obtain a promotion.
13 Defendant failed to provide Plaintiff with the level of training provided to Plaintiff's non-
14 Minority peer managers with respect to particular operational indices in Plaintiff's facility.
15 Defendant also failed to sufficiently staff Plaintiff's workgroup so that objectives could be met in
16 accordance with Defendant's expectations. By contrast, Defendant provided Plaintiff's non-
17 Minority peer managers with proper staffing or assigned employees from other workgroups to
18 assist the workgroups of non-Minority employees.

19 **B. Individual Claims for Termination and Retaliation**

20 136. Defendant discriminated against Plaintiff Satchell by terminating Plaintiff
21 for conduct for which non-Minority employees were not similarly terminated. In March 2002,
22 Defendant had an interim manager issue Plaintiff Satchell a third documented disciplinary action
23 within a 12-month period, and immediately terminated his employment. Defendant disciplined
24 and terminated Plaintiff for time card falsification. The time card "falsification" forming the
25 basis for the termination was Plaintiff's cancellation of employee minimum hours in December
26 2001 that Plaintiff performed upon directives from Matthews and Seymour. Plaintiff had
27 objected to canceling the minimum hours without an employee waiver.

28 137. On August 28, 2002, Defendant refused to rehire Plaintiff Satchell as an

1 Operations Manager after an Appeals Board in Memphis, Tennessee refused to overturn their
2 discriminatory discipline and wrongful termination actions. In April 2002, Plaintiff had filed an
3 internal discrimination complaint, as well as a GFT request in connection with his discriminatory
4 discipline, promotion, compensation, and wrongful termination claims dating from August 2001
5 through Plaintiff's termination. As part of his appeal, Plaintiff submitted facts supporting his
6 claims of differential treatment and discrimination by Defendant. Defendant has rehired and
7 overturned unfair actions against non-Minority employees upon the basis of much less credible
8 information than that provided by Plaintiff.

9 138. Defendant retaliated against Plaintiff Satchell for complaining of
10 discrimination. After Defendant terminated Plaintiff's employment in April 2002, Plaintiff filed a
11 race discrimination and wrongful termination complaint against Defendant with the California
12 Department of Fair Employment and Housing. In December 2002, Plaintiff filed a civil
13 complaint for race discrimination in Superior Court. In response to Plaintiff's complaints,
14 Defendant has engaged in a pattern of making defamatory statements against Plaintiff to
15 employers seeking to hire Plaintiff. As a result of Defendant's defamatory statements, Plaintiff
16 has been unable to secure employment to this date. On numerous occasions, prospective
17 employers have successfully completed several rounds of interviews with Plaintiff, have
18 commended Plaintiff on his presentation and employment record, have indicated satisfaction with
19 his references, and have provided Plaintiff with strong indication of their interest in employing
20 Plaintiff. However, upon speaking with or receiving letters from Defendant regarding Plaintiff,
21 the employers have declined to hire Plaintiff. In June 2002, Airborne Express declined to hire
22 Plaintiff after Defendant defamed Plaintiff in retaliation for filing a complaint. Yellow
23 Transportation similarly declined to hire Plaintiff after Defendant's retaliatory actions. Further,
24 after speaking with Defendant in December 2002, Coca-Cola Company refused to hire Plaintiff
25 after 6 successful interviews from August 2002 to December 2002.

26 139. In addition to the foregoing, Plaintiff Satchell has experienced disparate
27 treatment on the basis of race with respect to many employment practices by Defendant.

28 140. Plaintiff Satchell filed a timely charge of discrimination with the EEOC on

1 May 6, 2003, attached hereto as Exhibit "H," which was automatically cross-filed with the
2 DFEH. Plaintiff Satchell has received Notices of Right to Sue from the EEOC and the DFEH.

3 **Kalini Boykin**

4 **A. Class Claims**

5 141. Plaintiff Boykin was hired by Defendant in approximately May 1995 as a
6 casual, part-time Handler at the Oakland Hub. Despite repeated requests for available permanent
7 and full-time positions, Defendant hired and/or promoted many less senior non-Minority
8 individuals to permanent positions before Defendant gave Plaintiff a permanent position. For
9 example, in approximately June 1997, Plaintiff Boykin applied for the full-time position of
10 Control Room Agent at the Oakland Hub; however, Defendant passed her over in favor of a
11 subsequently hired and less experienced, non-African American.

12 142. Plaintiff also interviewed for numerous other full-time positions before she
13 was finally promoted to a full-time Truck Control Agent position in January 1998. Other non-
14 Minority employees with similar qualifications and experience were promoted to this position
15 sooner than Plaintiff Boykin.

16 143. Plaintiff Boykin also was rarely permitted to earn overtime hours, while
17 non-Minority employees were permitted to work overtime when necessary, earning wages at the
18 higher overtime rate.

19 144. In 1999, Plaintiff Boykin was promoted to an RTD Driver position after
20 several unsuccessful attempts to obtain the promotion despite being qualified. As in her previous
21 positions, Plaintiff Boykin excelled as an RTD Driver. She received a consistent 7.0 out of 7.0 on
22 her performance reviews. Plaintiff also excelled in Defendant's ASPIRE management training
23 program. On each of the three program assessments, (i) the Quantitative Assessment, (ii) the
24 Psychological Assessment, and the (iii) Peer Assessment, Plaintiff scored the highest possible
25 grade, 5 on a scale of 5.

26 145. In May 2000, Plaintiff applied for one of two Operations Manager
27 positions at the San Leandro Facility. Despite Plaintiff's superior qualifications and the strong
28 recommendation of her manager, Defendant, including specifically Senior Manager Robert

1 Montez and Regional Vice President Michael Pigors, passed over Plaintiff in favor of a less
2 experienced and less qualified non-Minority applicant, Carl Bowersmith.

3 146. Because of Plaintiff's superior qualifications, Defendant improperly
4 conducted the interviews so as to minimize the advantages that Plaintiff possessed over the two
5 non-Minority applicants. Contrary to Defendant's policy, Defendant conducted the interviews at
6 separate locations and with separate panels.

7 147. In response to the discriminatory hiring procedures, Plaintiff filed a GFT.
8 After an investigation, Defendant was directed to conduct the interviews again, and interviews
9 were scheduled for the following week at another facility before the same panel.

10 148. At the second interview, Defendant once again selected Bowersmith for the
11 two Operations Manager positions. Defendant was unable to explain why Bowersmith was more
12 qualified than Plaintiff when she raised the issue with manager Montez.

13 149. After being passed over a second time, Plaintiff Boykin filed another GFT
14 request together with an EEO discrimination complaint. Defendant failed to properly investigate
15 Plaintiff's discrimination complaint. Even though Defendant scheduled an arbitration to explore
16 Plaintiff's allegations, they failed to follow up or report any findings to Plaintiff. Moreover, no
17 one ever contacted Plaintiff from Employee Relations at Defendant's Memphis headquarters to
18 discuss the complaint with Plaintiff. In fact, Plaintiff has never received a response to her EEO
19 complaint even though she has never withdrawn it.

20 150. Even after Plaintiff ultimately was made a manager after several attempts,
21 Defendant continued to discriminate against her on the basis of race. While Defendant paid Carl
22 Bowersmith a salary in the first quartile for managers in their grade (Level 25), Plaintiff Boykin
23 was paid at the lowest rate in Level 25. Plaintiff was paid at a lower rate despite being assigned
24 greater management responsibilities than the two non-Minority managers. Upon becoming a
25 manager, Plaintiff Boykin assumed all the responsibilities of the manager who had stepped down
26 and more. She is responsible for the PM operations for RTD drivers in the entire South Bay and
27 mid-Peninsula service area, which includes both San Francisco stations, the South San Francisco
28 Facility, Palo Alto, the San Jose Facility, the Santa Clara Facility, the Sunnyvale Facility, the

1 Oakland Hub, and the San Jose and San Francisco Ramps. The operations for which she is
2 responsible last from 3:00 p.m. to midnight. Plaintiff is responsible for over 100 routes daily and
3 24 employees.

4 151. By contrast, Bowersmith was given a relatively easy management
5 assignment. Bowersmith was made responsible for the Weekend Operation, a 20-hour operation
6 on Saturdays and Sundays. The Weekend Operation involves nine employees, all moving freight
7 from the San Leandro Facility to the Oakland Hub.

8 152. Defendant also discriminated against Plaintiff by failing to provide
9 management support to Plaintiff, making it more difficult for her to perform her job duties.
10 Montez spent little time with Plaintiff, instead focusing his attention on assisting Bowersmith to
11 develop as a manager.

12 153. Despite her lack of support from Defendant, Plaintiff Boykin excelled in
13 her management responsibilities. In her first year as a manager, Plaintiff turned the extremely
14 uncooperative workgroup that she inherited from Mike Kelly, the previous non-Minority
15 manager, into a highly productive group. In that first year, Plaintiff received a Survey Feedback
16 Score ("SFA") of 97 from her group, and a SFA score of 94 in the second year.³ Moreover,
17 Plaintiff received a leadership average of 4.9 in her first year and one of 4.7 in her second year.
18 Plaintiff also received a commendation from the Senior Vice President for her management
19 abilities.

20 154. Nevertheless, Defendant took additional steps to undermine her
21 advancement in Defendant's management ranks. Montez refused to timely perform Plaintiff's
22 performance reviews, which are essential to pay rate and grade level increases. Plaintiff was
23 scheduled for a 3-month performance review prior to taking a maternity leave. Though Montez
24 timely performed the performance reviews for Bowersmith, he delayed Plaintiff's review until
25 she returned from her maternity leave. At that time, he gave Plaintiff a three-month review and
26 the two non-Minority managers six-month reviews.

27
28 ³ A SFA is an hourly employee's review of his or her manager. SFA are considered in determining a manager's
promotability and performance reviews.

1 155. Montez also discriminated against Plaintiff Boykin by providing her with
2 an unreasonably low review of 2.8. Defendant initially attempted to give Plaintiff a rating of 2.5,
3 but Plaintiff rebutted each and every basis for Montez's grading. Defendant rated Plaintiff below
4 3.0, despite her exemplary performance as reflected in her SFA scores, in order to preclude her
5 from receiving any pay or grade level increases. By contrast, the two non-Minority managers
6 were given higher scores and pay increases. Defendant has routinely delayed Plaintiff's pay and
7 grade level increases, requiring her to take extra measures in order to receive the same benefits as
8 the two non-Minority managers.

9 156. In March 2001, Defendant continued its discrimination against Plaintiff
10 Boykin by disciplining Plaintiff for a trivial matter for which it has routinely refused to discipline
11 non-Minority employees. Azevedo informed Plaintiff that she had failed to provide for an ad hoc,
12 unscheduled pick-up for an institutional customer. As a result of attempting to assure that the
13 Sacramento route was covered in light of Defendant's failure to provide her with sufficient RTD
14 Drivers, Plaintiff had inadvertently missed the order. However, the AM Operations Manager with
15 Plaintiff's responsibilities, had the order picked up the next morning. Since the package was an
16 economy order, there was no failure by Defendant to meet its delivery deadlines.

17 157. As a result of the missed pick up, Montez threatened to give Plaintiff a
18 written warning letter. Defendant's standard disciplinary practice is to provide written warning
19 letters only after an employee has committed previous acts deserving discipline. Defendant has
20 not provided documented counseling to non-Minority managers or employees upon their first
21 offense. In response to Plaintiff's pleas for fairness, Montez indicated that he would give Plaintiff
22 only a verbal warning if she would prepare a corrective action plan to address the oversight.

23 158. Plaintiff submitted the action plans as requested and was informed by
24 District Manager Robin VanGalder and Montez that it was insufficient. Defendant insisted on
25 giving Plaintiff a documented counseling despite earlier assurances that she would only get a
26 verbal warning. Furthermore, VanGalder and Montez informed Plaintiff that she had been guilty
27 of "gross leadership failure" and that she was a bad manager. non-Minority managers have
28 frequently failed to have packages picked up on time; yet, have not been disciplined, much less

1 given OLCCs or written warnings or accused of “gross leadership failure.”

2 **B. Individual Claim for Working Conditions**

3 159. Defendant assigned more burdensome job duties and shifts to Plaintiff
4 Boykin than to non-Minority employees, thus making it more difficult for her to perform as well
5 as her non-Minority peers. While a part-time Handler, Defendant discriminated against Plaintiff
6 Boykin on the basis of race by routinely assigning her to work on the busiest conveyor belts, or
7 “slides” as they are called at the Oakland Hub, where thousands of packages are processed. By
8 contrast, many stronger non-Minority employees were permitted to work on less taxing slides
9 where packages numbered in the hundreds, not thousands.

10 160. Defendant discriminated against Plaintiff Boykin after she became a full-
11 time Truck Control Agent by changing Plaintiff’s schedule to the most undesirable shift, 4:00 am
12 to 12:00 pm Tuesday through Saturday. Defendant did not adversely change the hours of any
13 non-Minority employees in Plaintiff Boykin’s workgroup.

14 161. In addition to the foregoing, Plaintiff Boykin has experienced disparate
15 treatment on the basis of race with respect to many employment practices by Defendant.

16 162. Plaintiff Boykin filed a timely charge of discrimination with the EEOC on
17 May 6, 2003, and filed a timely charge with the DFEH in July 31, 2002, attached hereto as
18 Exhibit “I.” Plaintiff Boykin has received Notices of Right to Sue from the EEOC and from the
19 DFEH.

20
21 **FIRST CLAIM FOR RELIEF**
VIOLATION OF TITLE VII—CLASS CLAIMS

22 163. This claim is brought on behalf of all Plaintiffs and the class of Minority
23 Employees and the class of Minority Lower Managers.

24 164. The class period for the Minority Employee Class for this Claim for Relief
25 is from June 20, 2002 through the date of judgment. The class period for the Minority Lower
26 Manager Class for this Claim for Relief is from July 10, 2002 through the date of judgment.

27 165. Plaintiffs Satchell, Boykin, Brown, Gonzales, Guerrero, Hutchins,
28 Sherman, Smith and Stevenson filed timely charges of discrimination with the Equal Employment

1 Opportunity Commission, received right to sue letters, and timely filed the instant claim.

2 166. The foregoing conduct violates Title VII of the Civil Rights Act of 1964,
3 42 U.S.C. §§ 2000(e), *et seq.*

4 **A. Disparate Impact**

5 167. As to disparate impact, Plaintiffs incorporate by reference the allegations of
6 paragraphs 1 through 31, 33 through 64, 69 through 74, 78 through 98, 103 through 111, 116
7 through 121, 124 through 135, 140 through 158, and 162 through 166, above, as though fully set
8 forth herein.

9 168. Defendant has maintained a system for making decisions about
10 promotions, assignments (as to the Minority Employee Class), compensation, and discipline
11 which is excessively subjective and which has had a disparate impact on Plaintiffs, the Minority
12 Employee Class, and the Lower Management Class. This system cannot be justified by business
13 necessity, but even if it could be so justified, less discriminatory alternatives exist that could
14 equally serve any alleged necessity. Defendant's policies and practices that have a disparate
15 impact on Plaintiffs and the classes they represent are alleged in paragraph 40 above.

16 169. Defendant's discriminatory policies and practices as described above have
17 denied Plaintiffs and the classes they represent promotions, desirable job assignments (as to the
18 Minority Employee Class), and compensation to which they were and are entitled; have caused
19 Plaintiffs and the classes they represent to be disciplined when they should not have been,
20 resulting in the loss of past and future wages and other job benefits; and have caused Plaintiffs
21 and the classes they represent to suffer humiliation, embarrassment and emotional distress.

22 **B. Disparate Treatment**

23 170. As to disparate treatment, Plaintiffs incorporate by reference the allegations
24 of paragraphs 1 through 169, above, as though fully set forth herein.

25 171. Defendant has engaged in a pattern and practice of intentional
26 discrimination against Plaintiffs and the classes in promotions, assignments (as to the Minority
27 Employee Class), compensation, and discipline.

28 172. Plaintiffs request relief as to both their disparate impact and disparate

1 treatment claims as provided in the Prayer for Relief below.

2
3 **SECOND CLAIM FOR RELIEF**
4 **VIOLATION OF TITLE VII—NON-CLASS CLAIMS FOR DISPARATE TREATMENT**

5 173. Plaintiffs incorporate by reference the allegations of paragraphs 1 through
6 172, above, as though fully set forth herein. This claim is brought on behalf of the named
7 Plaintiffs individually for their non-class claims.

8 174. Defendant intentionally discriminated against named Plaintiffs Brown,
9 Gonzales, Sherman, Smith, Stevenson, Satchell, and Boykin on the basis of their race.

10 175. Defendant subjected named Plaintiffs Brown, Gonzales, Sherman, Smith,
11 Stevenson, Satchell, and Boykin to a racially hostile work environment.

12 176. Defendant intentionally discriminated against Plaintiff Brown by
13 subjecting her to more burdensome work conditions than similarly situated non-Minority
14 employees, subjecting her to harassment, and retaliating against her for filing a discrimination
15 complaint.

16 177. Defendant intentionally discriminated against Plaintiff Gonzales by failing
17 to rehire him from disability.

18 178. Defendant intentionally discriminated against Plaintiff Sherman by
19 subjecting him to more burdensome work conditions than similarly situated non-Minority
20 employees and subjecting him to harassment.

21 179. Defendant intentionally discriminated against Plaintiff Smith by retaliating
22 against him for filing a discrimination complaint and terminating him.

23 180. Defendant intentionally discriminated against Plaintiff Stevenson by
24 subjecting him to harassment.

25 181. Defendant intentionally discriminated against Plaintiff Satchell by
26 retaliating against him for filing a discrimination complaint and terminating him.

27 182. Defendant intentionally discriminated against Plaintiff Boykin by
28 subjecting her to more burdensome work conditions than similarly situated non-Minority

1 employees.

2 183. Defendant's discriminatory and retaliatory practices have resulted in the
3 loss of past and future wages and other job benefits, and have caused Plaintiffs to suffer
4 humiliation, embarrassment and emotional distress.

5 184. Plaintiffs request relief as to both their disparate impact and disparate
6 treatment claims as provided in the Prayer for Relief below.

7
8 **THIRD CLAIM FOR RELIEF**
VIOLATION OF 42 U.S.C. § 1981—CLASS CLAIMS

9 185. Plaintiffs incorporate by reference the allegations of paragraphs 1 through
10 184, above, as though fully set forth herein.

11 186. This claim is brought on behalf of all Plaintiffs and the Minority Employee
12 Class and the Minority Lower Management Class.

13 187. The class period for both the Minority Employee Class and the Minority
14 Lower Management Class for this Claim for Relief is from October 17, 1999 to the date of
15 judgment in this action.

16 188. FedEx Express has engaged in a pattern and practice of intentional
17 discrimination against Plaintiffs and the classes with respect to initial assignments (as to the
18 Minority Employee Class only), promotion, compensation, and discipline.

19 189. The foregoing conduct constitutes illegal intentional discrimination with
20 respect to the making, performance, modification, and termination of contracts prohibited by
21 42 U.S.C. § 1981.

22 190. Plaintiffs request relief as provided in the Prayer for Relief below.

23
24 **FOURTH CLAIM FOR RELIEF**
VIOLATION OF 42 U.S.C. § 1981—NON-CLASS CLAIMS

25 191. Plaintiffs incorporate the allegations of paragraphs 1 through 190, above,
26 as though full set forth herein.

27 192. This claim is brought on behalf of the named Plaintiffs individually for
28

1 their non-class claims.

2 193. Defendant intentionally discriminated against named Plaintiffs Brown,
3 Gonzales, Sherman, Smith, Stevenson, Satchell, and Boykin on the basis of their race.

4 194. Defendant intentionally discriminated against Plaintiff Brown by
5 subjecting her to more burdensome work conditions than similarly situated non-Minority
6 employees, subjecting her to harassment, and retaliating against her for filing a discrimination
7 complaint.

8 195. Defendant intentionally discriminated against Plaintiff Gonzales by failing
9 to rehire him from disability.

10 196. Defendant intentionally discriminated against Plaintiff Sherman by
11 subjecting him to more burdensome work conditions than similarly situated non-Minority
12 employees and subjecting him to harassment.

13 197. Defendant intentionally discriminated against Plaintiff Smith by retaliating
14 against him for filing a discrimination complaint and terminating him.

15 198. Defendant intentionally discriminated against Plaintiff Stevenson by
16 subjecting him to harassment.

17 199. Defendant intentionally discriminated against Plaintiff Satchell by
18 retaliating against him for filing a discrimination complaint and terminating him.

19 200. Defendant intentionally discriminated against Plaintiff Boykin by
20 subjecting her to more burdensome work conditions than similarly situated non-Minority
21 employees.

22 201. Defendant's discriminatory and retaliatory practices have resulted in the
23 loss of past and future wages and other job benefits, and have caused Plaintiffs to suffer
24 humiliation, embarrassment and emotional distress.

25 202. Plaintiffs request relief as to both their disparate impact and disparate
26 treatment claims as provided in the Prayer for Relief below.

FIFTH CLAIM FOR RELIEF
VIOLATION OF CALIFORNIA FEHA-CLASS CLAIMS

203. This claim is brought on behalf of all members of the classes who are or were employed by Defendant in California and/or who reside in California, including all the named Plaintiffs.

204. The class period for the Minority Employee Class for this Claim for Relief is from June 13, 2001 through the date of judgment in this action. The class period for the Minority Lower Manager Class for this Claim for Relief is from July 31, 2001 through the date of judgment in this action.

205. Plaintiffs Satchell, Boykin, Brown, Gonzales, Guerrero, Hutchins, Sherman, Smith, and Stevenson filed timely charges of discrimination with the California Fair Employment and Housing, received right to sue letters, and timely filed the instant claim. Plaintiffs have therefore exhausted their administrative remedies and fulfilled all conditions precedent to suit.

A. Disparate Impact

206. As to disparate impact, Plaintiffs incorporate by reference the allegations of paragraphs 1 through 31, 33 through 64, 69 through 74, 78 through 98, 103 through 111, 116 through 121, 124 through 135, 140 through 158, and 162 through 205, above, as though fully set forth herein.

207. Defendant has maintained a system for making decisions about promotions, assignments (as to the Minority Employee Class), compensation, and discipline which is excessively subjective and which has had a disparate impact on Plaintiffs, the Minority Employee Class, and the Lower Management Class. This system cannot be justified by business necessity, but even if it could be so justified, less discriminatory alternatives exist that could equally serve any alleged necessity. Defendant's policies and practices that have a disparate impact on Plaintiffs and the classes they represent are alleged in paragraph 40 above.

208. Defendant's discriminatory policies and practices as described above have denied Plaintiffs and the classes they represent promotions, desirable job assignments (as to the

1 Minority Employee Class), and compensation to which they were and are entitled; have caused
2 Plaintiffs and the classes they represent to be disciplined when they should not have been,
3 resulting in the loss of past and future wages and other job benefits; and have caused Plaintiffs
4 and the classes they represent to suffer humiliation, embarrassment and emotional distress.

5 **B. Disparate Treatment**

6 209. As to disparate treatment, Plaintiffs incorporate by reference the allegations
7 of paragraphs 1 through 208, above, as though fully set forth herein.

8 210. Defendant has engaged in a pattern and practice of intentional
9 discrimination against Plaintiffs and the classes in promotions, assignments (as to the Minority
10 Employee Class), compensation, and discipline.

11 211. The foregoing conduct by Defendant against the named Plaintiffs and
12 members of the classes residing or employed in California violates Section 12940, *et seq.*, of the
13 California Government Code, known as the Fair Employment and Housing Act ("FEHA").

14 212. As a result of such violations of FEHA, the named Plaintiffs and members
15 of the classes residing or employed in California have suffered the loss of past and future wages
16 and other job benefits, and have suffered humiliation, embarrassment and emotional distress.

17 213. Plaintiffs request relief as to both their disparate impact and disparate
18 treatment claims as provided in the Prayer for Relief below.

19
20 **SIXTH CLAIM FOR RELIEF**
VIOLATION OF CALIFORNIA FEHA—NON-CLASS CLAIMS

21 214. Plaintiffs incorporate paragraphs incorporate by reference the allegations of
22 paragraphs 1 through 213, above, as though fully set forth herein.

23 215. This claim is brought on behalf of the named Plaintiffs employed and/or
24 residing in California individually for their non-class claims.

25 216. Defendant intentionally discriminated against named Plaintiffs Brown,
26 Gonzales, Sherman, Smith, Stevenson, Satchell, and Boykin on the basis of their race.

27 217. Defendant subjected named Plaintiffs Brown, Gonzales, Sherman, Smith,
28

1 Stevenson, Satchell, and Boykin to a racially hostile work environment.

2 218. Defendant intentionally discriminated against Plaintiff Brown by
3 subjecting her to more burdensome work conditions than similarly situated non-Minority
4 employees, subjecting her to harassment, and retaliating against her for filing a discrimination
5 complaint.

6 219. Defendant intentionally discriminated against Plaintiff Gonzales by failing
7 to rehire him from disability.

8 220. Defendant intentionally discriminated against Plaintiff Sherman by
9 subjecting him to more burdensome work conditions than similarly situated non-Minority
10 employees and subjecting him to harassment.

11 221. Defendant intentionally discriminated against Plaintiff Smith by retaliating
12 against him for filing a discrimination complaint and terminating him.

13 222. Defendant intentionally discriminated against Plaintiff Stevenson by
14 subjecting him to harassment.

15 223. Defendant intentionally discriminated against Plaintiff Satchell by
16 retaliating against him for filing a discrimination complaint and terminating him.

17 224. Defendant intentionally discriminated against Plaintiff Boykin by
18 subjecting her to more burdensome work conditions than similarly situated non-Minority
19 employees.

20 225. Defendant's discriminatory and retaliatory practices have resulted in the
21 loss of past and future wages and other job benefits, and have caused Plaintiffs to suffer
22 humiliation, embarrassment and emotional distress.

23 226. Plaintiffs request relief as provided in the Prayer for Relief below.

24 **RELIEF ALLEGATIONS**

25 227. Plaintiffs and the classes they represent have no plain, adequate or
26 complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in
27 this action is the only means of securing complete and adequate relief. Plaintiffs and the classes
28 they represent are now suffering and will continue to suffer irreparable injury from Defendant's

1 discriminatory acts and omissions.

2 228. The actions on the part of Defendant have caused and continue to cause
3 Plaintiffs and the classes substantial losses in earnings, other compensation, desirable job
4 assignments, promotions, and other employment benefits, in an amount to be determined
5 according to proof.

6 229. The actions on the part of Defendant have caused Plaintiffs and the classes
7 to suffer humiliation, embarrassment and emotional distress.

8 230. Defendant acted or failed to act as herein alleged with malice or reckless
9 indifference to the protected rights of Plaintiffs and members of the classes. Plaintiffs and
10 members of the classes are thus entitled to recover punitive damages in an amount to be
11 determined according to proof.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiffs, and the classes, pray for relief as follows:

14 1. Certification of the case as a class action on behalf of the proposed Plaintiff
15 classes, and designation of Plaintiffs as representatives of the classes and their counsel of record
16 as Class Counsel;

17 2. Damages and equitable relief for all harm the individual Plaintiffs and the
18 classes have sustained as a result of Defendant's conduct, including back pay, front pay,
19 compensatory damages for emotional distress, and general and special damages for lost
20 compensation and job benefits that they would have received but for the discriminatory practices
21 of Defendant, and punitive damages, according to proof;

22 3. For Plaintiffs' individual, non-class claims, damages and equitable relief
23 for all harm that Plaintiffs have sustained as a result of Defendant's conduct, including
24 reinstatement, back pay, front pay, general and specific damages for lost compensation and job
25 benefits they would have received but for the discriminatory practices of Defendant,
26 compensatory damages for emotional distress, and punitive damages, according to proof;

27 4. Exemplary and punitive damages in an amount commensurate with
28 Defendant's ability to pay and to deter future discriminatory conduct;

1 5. A preliminary and permanent injunction against Defendant and its
2 directors, officers, owners, agents, successors, employees and representatives, and any and all
3 persons acting in concert with it, from engaging in each of the unlawful practices, policies,
4 customs and usages set forth herein;

5 6. A declaratory judgment that the practices complained of in this complaint
6 are unlawful and violate 42 U.S.C. § 2000(e), *et seq.*, Title VII of the Civil Rights Act of 1964e;

7 7. A declaratory judgment that the practices complained of in this complaint
8 are unlawful and violate 42 U.S.C. § 1981;

9 8. A declaratory judgment that the practices complained of in this complaint
10 are unlawful and violate Section 12940, *et seq.*, of the California Government Code, known as the
11 Fair Employment and Housing Act;

12 9. An order restoring and/or promoting Plaintiffs and the classes to their
13 rightful positions;

14 10. An order assigning Plaintiffs and the classes to those jobs they would now
15 be occupying but for Defendant's discriminatory practices;

16 11. An order adjusting the wage rates and benefits for Plaintiffs and the classes
17 to that level which Plaintiffs and the classes would be enjoying but for Defendant's
18 discriminatory practices;

19 11. Costs incurred, including reasonable attorneys' fees, to the extent allowable
20 by law;

21 12. Pre-Judgment and Post-Judgment interest, as provided by law; and

22 13. Such other and further legal and equitable relief as this Court deems
23 necessary, just and proper.

24 **DEMAND FOR JURY TRIAL**

25 Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal
26 Rules of Civil Procedure.

1 Dated: November 12, 2003

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

2
3
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James M. Finberg

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23 Attorneys for Plaintiffs and the Proposed Classes
24
25
26
27
28

EXHIBIT A

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 370A300716
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
CA DEPT FAIR EMPLOYMENT & HOUSING State or local Agency, if any		and EEOC	
NAME (Indicate Mr., Ms., Mrs.) Ms. Valerie Brown		HOME TELEPHONE (Include Area Code) (209) 832-5039	
STREET ADDRESS 1803 Lloyd C. Gary Drive, Tracy, CA 95376		CITY, STATE AND ZIP CODE DATE OF BIRTH 01/06/1960	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME FedEx Corporation		NUMBER OF EMPLOYEES, MEMBERS Cat D (501 +)	TELEPHONE (Include Area Code)
STREET ADDRESS 335 Brokaw Road, Santa Clara, CA 95050		CITY, STATE AND ZIP CODE COUNTY 085	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) ☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST 05/03/1982 LATEST 04/16/2003 ☒ CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): SEE ATTACHED			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	
Date	Charging Party (Signature)		

STATEMENT

EEOC CHARGE STATEMENT

I, VALERIE BROWN, state as follows:

1.

I am 43 years of age. I am African American. I hold Social Security number 360-60-8485. My date of birth is January 6, 1960. I reside at 1803 Lloyd C. Gary Drive, Tracy, CA 95376. My telephone number is (209) 832-5039.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 335 Brokaw Road, Santa Clara, California 95050. My job classification is Senior Service Agent. My immediate supervisor is Tim Moniz, and the Station Manager is Angela Suazo.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I began my employment with Respondent on or about May 3, 1982.

5.

Beginning on or about May 3, 1982, I was subjected to race-based discrimination by Fedex, including among other things, race-based discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties. This discrimination was and is the result of disparate treatment and/or policies, procedures and practices that have a disparate impact on the basis of race. Even though I was doing the same job duties as my Caucasian co-workers, I was denied promotions that I was qualified to receive, and. I have been employed by Fedex for 20 years, and I have been denied promotion(s), or held up for promotion(s) for extended periods as a result of discrimination. Similarly, I have and continue to be paid less than Caucasian employees who perform substantially similar work and who have similar or lesser skills or experience. During my employment as Fedex I have repeatedly complained to company officials regarding their failure to promote me, and to provide compensation and terms and conditions of employment equal to those provided to my Caucasian co-workers. Despite these complaints,

STATEMENT

Fedex officials have done little or nothing to address my concerns.

6.

Fedex and its officials have retaliated against me for complaining about race-based discrimination. Among other things, Fedex has retaliated against me by improperly disciplining me.

7.

Respondent, Chris Matthews and others are responsible for the discrimination, disparate treatment and retaliation to which I was subjected while working for Respondent. Furthermore, Respondents Chris Matthews, Steve Seymour, Angela Suazo and others are responsible for not taking all reasonable steps to prevent this discrimination from occurring. I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me including discrimination in promotions, compensation and the terms and conditions of employment.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 4-7, 2003

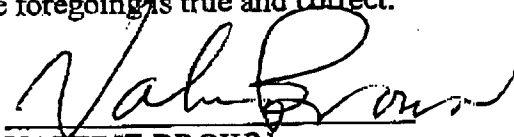

VALERIE BROWN

EXHIBIT B

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 370A300717
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
<u>CA DEPT FAIR EMPLOYMENT & HOUSING</u>		and EEOC <i>State or local Agency, if any</i>	
NAME (Indicate Mr., Ms., Mrs.) Mr. Rick Gonzales		HOME TELEPHONE (Include Area Code) (909) 303-9855	
STREET ADDRESS 45323 Vista Verde, Temecula, CA 92592		CITY, STATE AND ZIP CODE DATE OF BIRTH 01/08/1960	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME FedEx Corporation		NUMBER OF EMPLOYEES, MEMBERS Cat D (501 +)	
STREET ADDRESS Santa Fe Springs, Santa Fe Springs, CA 90670		TELEPHONE (Include Area Code) 037	
NAME Santa Fe Springs, Santa Fe Springs, CA 90670		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS Santa Fe Springs, Santa Fe Springs, CA 90670		COUNTY 037	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) ☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST 06/01/2000 09/13/2002 ☐ CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): SEE ATTACHED APR 1 2003 [100-51100]			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	
Date _____ Charging Party (Signature) _____			

STATEMENT

EEOC CHARGE STATEMENT

I, Rick Gonzales, state as follows:

1.

I am 43 years of age. I am Hispanic. I hold Social Security number 569-17-4098. My date of birth is 1-8-60. I reside at 45323 Vista Verde, Temecula, CA 92592. My telephone number is 909-303-9855.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at Santa Fe Springs, California/ My job classification is Courier. My immediate supervisor(s) are Eugene McDonald and Paul Coleman.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I began my employment with Respondent on or about May 1988.

5.

Beginning on or about Summer of 2000, I was subjected to race-based discrimination by Fedex, including among other things, race-based discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties. This discrimination was and is the result of disparate treatment and/or policies, procedures and practices that have a disparate impact on the basis of race. Even though I was doing the same job duties as my Caucasian co-workers, I was denied promotions that I was qualified to receive. I have been employed by Fedex for 14 years, and I have been denied promotion(s), or held up for promotion(s) for extended periods as a result of discrimination. Similarly, I have and continue to be paid less than Caucasian employees who perform substantially similar work and who have similar or lesser skills or experience. During my employment as Fedex I have repeatedly complained to company officials regarding their failure to promote me, and to provide compensation and terms and conditions of employment equal to those provided to my Caucasian co-workers. Despite these complaints, Fedex officials

STATEMENT

have done little or nothing to address my concerns.

The discrimination continued until the last day I worked for Respondent on or about September 13, 2002.

6.

Fedex and its officials have retaliated against me for complaining about race-based discrimination. Among other things, Fedex has retaliated against me by lowering my performance scores and passing over me for promotions.

7.

Respondent, Eugene McDonald and Paul Coleman are responsible for the discrimination, disparate treatment and retaliation to which I was subjected while working for Respondent. Furthermore, Respondent, Eugene McDonald and Paul Coleman are responsible for not taking all reasonable steps to prevent this discrimination from occurring. I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me including discrimination in promotions, compensation and the terms and conditions of employment.

8.

The acts of Respondent were taken primarily by Eugene McDonald and Paul Coleman, but through certain others as well.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: April 8TH, 2003

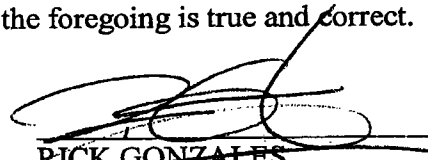
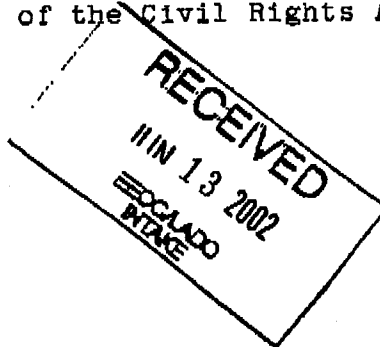

RICK GONZALES

EXHIBIT C

05/01/03 12:58 FAX

04

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 340A202078
form is affected by the Privacy Act of 1974; See Privacy Act Statement before filing this form.			
CA Dept. Fair Employment & Housing State or local Agency, if any		and EEOC	
(Indicate Mr., Ms., Mrs.) Cynthia Guerrero		HOME TELEPHONE (Include Area Code) (562) 699-5518	
STREET ADDRESS 39 Pioneer Blvd. #201, Santa Fe Springs, CA 90670	CITY, STATE AND ZIP CODE	DATE OF BIRTH 12/29/1975	
ED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, OR LOCAL GOVERNMENT, AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
Federal Express	NUMBER OF EMPLOYEES, MEMBERS Cat B (501 +)	TELEPHONE (Include Area Code) (562) 946-0731	
STREET ADDRESS 39 Anh St., Santa Fe Springs, CA 90670	CITY, STATE AND ZIP CODE	COUNTY 037	
TELEPHONE NUMBER (Include Area Code)			
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
E OF DISCRIMINATION BASED ON (Check appropriate box(es)) RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ ☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST 03/06/2002 LATEST 05/23/2002 ☒ CONTINUING ACTION	
PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): On or about October 10, 1995, I began employment at Federal Express. I currently work as a Courier. From approximately March 6, 2002 and until most recently, on May 23, 2002, I have repeatedly been disciplined by Mr. Eugene McDonald. I. The reasons given to me for the discipline are varied and include but are not limited to, missing van scans, air bill copies missing, etc. II. I believe I have been discriminated against due to my race, (Hispanic), in violation of Title VII of the Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	
11/13/02 Cynthia Guerrero Charging Party (Signature)			



CHARGING PARTY COPY

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: ☐ FEPA ☒ EEOC		Agency(ies) Charge No(s): 370-2003-09677	
California Department Of Fair Employment & Housing and EEOC State or local Agency, if any					
Name (Indicate Mr., Ms., Mrs.) Ms. Cynthia Guerrero		Home Phone No. (Incl Area Code) (562) 699-5518		Date of Birth 12-29-1975	
Street Address 9039 Pioneer Blvd J201 Santa Fe Springs, CA 90670		City, State and ZIP Code			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)					
Name FEDERAL EXPRESS		No. Employees, Members 500 or More		Phone No. (Include Area Code) (800) 479-9957	
Street Address 9339 Ann St Santa Fe Springs, CA 90670		City, State and ZIP Code			
Name		No. Employees, Members		Phone No. (Include Area Code)	
Street Address		City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) ☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)				DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 06-13-2003 ☒ CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):					
SEE ATTACHED					
RECEIVED JUN 18 2003 EEOC-SFDO					
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.			NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)		
Date _____ Charging Party Signature _____					

STATEMENT

EEOC CHARGE STATEMENT

I, CYNTHIA GUERRERO, state as follows:

1.

I am 27 years of age. I am Hispanic. I hold Social Security number 514-76-3524. My date of birth is 12-29-75. I reside at 9039 Pioneer Blvd., J201, Santa Fe Springs, CA 90670. My telephone number is 818-355-4690.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 9339 Ann Street, Santa Fe Springs, CA 90670. I began my employment with Respondent on or about October 1995. My job classification is Courier. My immediate supervisor is Eugene McDonald.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I have been subjected to race-based disparate treatment by Fedex, including among other things, discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties.

I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me, including discrimination in promotions, compensation and the terms and conditions of employment. I am further informed and believe that the discrimination was and is the result of policies, procedures and practices that have a disparate impact on the basis of race.

5.

During my employment at Fedex, I have repeatedly complained to company officials regarding the discrimination. Despite these complaints, Fedex officials have done little or nothing to address my concerns.

STATEMENT

6.

Respondent has retaliated against me for complaining about race-based discrimination.

7.

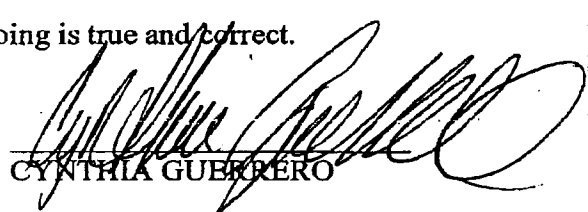
On or about September 20, 2002, I left work on medical leave. On January 5, 2003, FedEx informed me that I could not return to work because I had been displaced from my position. I contend that the discrimination continues to the present, as I have not been allowed to return to work, while other employees have been accommodated after similar medical leave.

8.

Respondent's agents, Eugene McDonald and Mike Smith, among others, are responsible for the discrimination to which I was subjected, and for not taking all reasonable steps to prevent this discrimination from occurring.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 10/13/03, 2003


CYNTHIA GUERRERO

RECEIVED

JUN 18 2003

EEOC-SFDO

EXHIBIT D

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Agency(ies) Charge No(s):

370-2003-09590

and EEOC

State or local Agency, if any

Date of Birth

12-12-1976

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Phone No. (Include Area Code)

500 or More

City, State and ZIP Code

Phone No. (Include Area Code)

City, State and ZIP Code

DATE(S) DISCRIMINATION TOOK PLACE	
Earliest	Latest
11/1/68	11/1/68

05-13-2003

☒ CONTINUING ACTION

SEE ATTACHED

EEOC-SFDO

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Charging Party Signature

STATEMENT

EEOC CHARGE STATEMENT

I, RACHEL HUTCHINS, state as follows:

1.

I am 26 years of age. I am Black. I hold Social Security number 567-45-9072. My date of birth is 12-12-76. I reside at 1027 Bachelor Street, Bakersfield, CA 93307. My telephone number is 661-832-5366.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 2103 Airport Drive, Bakersfield, CA 93308. I began my employment with Respondent on or about November 1995. My job classification is Handler. My immediate supervisor is Robert Canales.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I have been subjected to race-based disparate treatment by Fedex, including among other things, discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties.

I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me, including discrimination in promotions, compensation and the terms and conditions of employment. I am further informed and believe that the discrimination was and is the result of policies, procedures and practices that have a disparate impact on the basis of race.

5.

During my employment at Fedex, I have repeatedly complained to company officials regarding the discrimination. Despite these complaints, Fedex officials have done little or nothing to address my concerns.

STATEMENT

6.

Respondent has retaliated against me for complaining about race-based discrimination.

7.

Respondent's agents, Charles McQueen (Senior Manager) and Robert Canales, among others, are responsible for the discrimination to which I was subjected, and for not taking all reasonable steps to prevent this discrimination from occurring.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: May 13, 2003


RACHEL HUTCHINS

RECEIVED

MAY 27 2003

EEOC-SFDO

EXHIBIT E

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC
370-2003-09922**California Department Of Fair Employment & Housing**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Daniel Sherman

Home Phone No. (Incl Area Code)

(408) 249-9186

Date of Birth

07-25-1973

Street Address

City, State and ZIP Code

2600 Bowers Avenue, Apt. 2 Santa Clara, CA 95051

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

FEDEX CORPORATION

No. Employees, Members

500 or More

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

1286 Lawrence Station Road Sunnyvale, CA 94089

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)
DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**08-15-2003**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHED**RECEIVED****AUG 15 2003****EEOC-SFDO**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

STATEMENT

EEOC CHARGE STATEMENT

I, DANIEL SHERMAN, state as follows:

1.

I am 30 years of age. I am African American. I hold Social Security number 149-62-2639. My date of birth is 7/25/73. I reside at 2600 Bowers Avenue, Apt. 2, Santa Clara, CA 95051. My telephone number is 408-249-9186.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 1286 Lawrence Station Road, Sunnyvale, California 94089. I began my employment with Respondent on or about February 1999. My job classification is Handler. My immediate supervisor is Jason Curtis.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I have been subjected to race-based disparate treatment by Fedex, including among other things, discrimination with respect to compensation, promotions, and the terms and conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties.

I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me, including discrimination in promotions, compensation and the terms and conditions of employment. I am further informed and believe that the discrimination was and is the result of policies, procedures and practices that have a disparate impact on the basis of race.

STATEMENT

5.

During my employment at Fedex, I have repeatedly complained to company officials regarding the discrimination. Despite these complaints, Fedex officials have done little or nothing to address my concerns.

6.

Respondent has retaliated against me for complaining about race-based discrimination.

7.

Respondent's agents, Robert Motter and Gary Meek, among others, are responsible for the discrimination to which I was subjected, and for not taking all reasonable steps to prevent this discrimination from occurring.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 8/8/, 2003

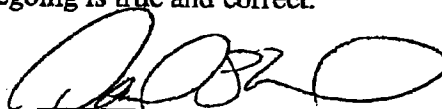

DANIEL SHERMAN

EXHIBIT F

EEOC Form 6 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**370-2003-09699****California Department Of Fair Employment & Housing**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Kelvin Smith, Sr.

Home Phone No. (Incl Area Code)

(760) 403-0398

Date of Birth

12-04-1967

Street Address

City, State and ZIP Code

19156 Cromese Lane Apple Valley, CA 92308

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

FEDERAL EXPRESS

No. Employees, Members

500 or More

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

335 Brokaw Road Santa Clara, CA 95050

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)
DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**08-30-2002**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHED**RECEIVED****JUN 24 2003****EEOC-8700**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

JUN 24 2003 12:01 PM MONTECITO 2393

9097997572 TO 14154403640

P.03/04

To: Kelvin Smith

From: Schneider & Wallace

STATEMENT**EEOC CHARGE STATEMENT**

I, KELVIN SMITH, SR., state as follows:

1.

I am 39 years of age. I am Black. I hold Social Security number 545-75-2968. My date of birth is 12/4/64. I reside at 19156 Cromese Lane, Apple Valley, CA 92308. My telephone number is 760-403-0398.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 335 Brokaw Road, Santa Clara, California 95050. I began my employment with Respondent on or about November 1989. When I was terminated, my job classification was Lead Handler.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I have been subjected to race-based disparate treatment by Fedex, including among other things, discrimination with respect to compensation, promotions, and the terms and conditions of my employment with Fedex, including but not limited to, unequal job assignments, more hazardous work conditions, unequal training opportunities and the assignment of more strenuous job duties.

I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me, including discrimination in promotions, compensation and the terms and conditions of employment. I am further informed and believe that the discrimination was and is the result of policies, procedures and practices that have a disparate impact on the basis of race.

5.

During my employment at Fedex, I have repeatedly complained to company officials regarding the discrimination. Despite these complaints, Fedex officials have done little or nothing to address my concerns.

Page 1

JUN 24 2003 12:01 FR MONTECITO 2393 9097997572 TO 14154403640 P.04/04
To: Kelvin Smith From: Schneider & Wallace

STATEMENT

6.

Respondent has retaliated against me for complaining about race-based discrimination.

7.

The discrimination continued through August 2002, when Respondent upheld its discriminatory discipline and termination, after I initiated an appeal via FedEx's internal Guaranteed Fair Treatment process.

8.

Respondent's agents, Angela Suazo, Cory Winters and Rob Motter, among others, are responsible for the discrimination to which I was subjected, and for not taking all reasonable steps to prevent this discrimination from occurring.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 6-24, 2003


KELVIN SMITH, SR.

Page 2

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH # B200203-G-0079-01

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

TELEPHONE NUMBER (Include Area Code)

Kelvin J. Smith Jr.

ADDRESS

1840 Scott Blvd #1

CITY/STATE/ZIP

San Jose CA 95128

COUNTY

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

TELEPHONE NUMBER (Include Area Code)

Angela Susszo, Federal Express, Corey Walker

ADDRESS

335 Brokaw Rd

DFEH USE ONLY

CITY/STATE/ZIP

San Jose CA 95128

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year)

RESPONDENT CODE

THE PARTICULARS ARE:

On July 5, 2002 I was

☒ fired☐ denied employment☐ denied family or medical leave☐ laid off☐ denied promotion☐ denied pregnancy leave☐ demoted☐ denied transfer☐ denied equal pay☐ harassed☐ denied accommodation☐ denied right to wear pants☐ genetic characterization testing☐ impermissible non-job-related inquiry☐ denied pregnancy accommodation☐ forced to quit☐ other (specify)

by Angela Susszo

Sr. Manager

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of my:

☐ sex☐ national origin/ethnicity☐ physical disability☐ cancer☒ (Grade III) Fibros☐ age☐ marital status☐ mental disability☐ genetic characteristics☐ protesting prior history of☐ religion☐ sexual orientation☒ other (specify)☐ investigation of violation (or)☐ race/color☐ association☐ other (specify)

the reason given by Angela Susszo

Sr. Manager

Name of Person and Job Title

Was because of

(please state

what you believe

to be reason(s))

Because of Break taking that was a
paid Break not unpaid Break.I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal act of right-to-sue, I must
visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the filing of discriminatory act,
whichever is earlier.I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or
reopen a complaint once the complaint has been closed on the basis of "Complainant Elects Court Action."I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated as my information and
belief, and as to those matters I believe to be true.

Dated

7-21-02

COMPLAINANT SIGNATURE

At

San Jose

City

DATE FILED:

JUL 22 2002

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

STATE OF CALIFORNIA

DFEH-300-03 (07/01)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

L261 ZSS:ON

9/1/02 2002/07/19

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACTDFEH # B20C203-G-0079-0025

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

TELEPHONE NUMBER (INCLUDE AREA CODE)

Kevin J. Smith Jr.

ADDRESS

1840 Scott Blvd #1

CITY/STATE/ZIP

San Jose CA 95128

COUNTY

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

Angela Susszo, Federal Express, Corey Walker

ADDRESS

335 Brookside

DFEH USE ONLY

CITY/STATE/ZIP

San Jose CA 95128

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)

RESPONDENT CODE

THE PARTICULARS ARE:

On July 5, 2002 I WAS
☒ fired
☐ laid off
☐ demoted
☐ harassed
☐ genetic characteristics testing
☐ forced to quit

☐ denied employment
☐ denied promotion
☐ denied transfer
☐ denied accommodation
☐ impermissible non-job-related inquiry
☐ other (specify)

☐ denied family or medical leave
☐ denied pregnancy leave
☐ denied equal pay
☐ denied right to wear pants
☐ denied pregnancy accommodation
by Angela Susszo

Name of Person

Jr. Manager

Job Title (supervisor/manager/personnel director/etc.)

because of my:

☐ sex
☐ age
☐ religion
☐ race/color

☐ national origin/ancestry
☐ marital status
☐ sexual orientation
☐ association

☐ physical disability
☐ mental disability

☐ gender
☐ genetic characteristic

☒ retaliation (check one)
☐ protecting or participating in
☐ investigation / retaliation (ret)
Retaliation wrongful terminationthe reason given by Angela Susszo Jr. Manager

Name of Person and Job Title

Was because of
(please state
what you believe
to be reason(s))Because of break taking that was a
paid break not unpaid break.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal action of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or respond to a complaint once the complaint has been closed on the basis of "Complaint Elevated Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated as my information and belief, and as to those matters I believe it to be true.

Dated: 7-21-02

COMPLAINANT'S SIGNATURE

RECEIVED

At San Jose
City

JUL 22 2002

DATE FILED: JUL 22 2002

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

STATE OF CALIFORNIA

*** EMPLOYMENT ***

DFEH # E200203-G-0079-02rc

DFEH USE ONLY

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

TELEPHONE NUMBER (INCLUDE AREA CODE)

YOUR NAME (Include Mr. or Ms.)

Kelvin J. Smith Jr.

ADDRESS

1840 Scott Blvd #1

CITY/STATE/ZIP

Santa Clara CA 95050

COUNTY

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

TELEPHONE NUMBER (Include Area Code)

NAME

Angela Suenzo, Federal Express, County Welfare

DFEH USE ONLY

ADDRESS

331 Broadway St

COUNTY

COUNTY CODE

CITY/STATE/ZIP

Santa Clara CA 95050

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)

RESPONDENT CODE

THE PARTICULARS ARE:

On July 5, 2002 I was

☒

fired

☐

laid off

☐

demoted

☐

harassed

☐

genetic characteristics testing

☐

forced to quit

☐ denied employment☐ denied promotion☐ denied transfer☐ denied accommodation☐ impermissible non-job-related inquiry☐ other (specify)☐ denied family or medical leave☐ denied pregnancy leave☐ denied equal pay☐ denied right to wear glasses☐ denied pregnancy accommodation

by Angela Suenzo

Sr. Manager

Name of Person

Job Title (supervisor/manager/department director/etc.)

because of my:

☐ sex☐ age☐ religion☐ race/ethnicity☐ national origin/ancestry☐ marital status☐ sexual orientation☐ association☐ physical disability☐ mental disability☐ cancer☐ genetic characteristics☒ other (specify)☒ (Circle and fill in)
retaliation for participating in
investigation & mediation for

retaliation for wrongful termination

the reason given by Angela Suenzo

Sr. Manager

Name of Person and Job Title

Was because of
(please state
what you believe
to be reason(s))Because of break taking that was a
paid break not unpaid break.I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal review of right-to-sue, I must
visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act,
whichever is earlier.I have not been advised how making this request, nor do I make it based on fear of retaliation. If I do not do so, I understand it is the Department of Fair Employment and Housing's policy to not process or
reopen a complaint since the complaint has been closed on the basis of "Complainant Elected Court Action."I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated as my information and
belief, and as to those matters I believe it to be true.

Dated 7-21-02

RECEIVED
COMPLAINANT'S SIGNATUREAt San Jose
City

JUL 22 2002

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

DATE FILED:

JUL 22 2002

DFEH-300-03 (07/01)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

010 255 *ON

EXHIBIT G

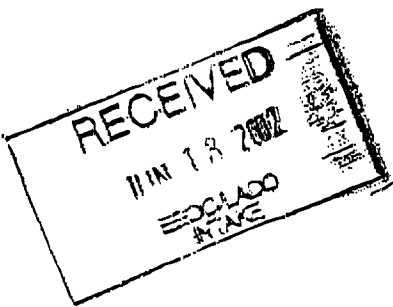
CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 340A702065
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
<u>CA Dept. Fair Employment & Housing</u> State or local Agency, if any		and EEOC	
NAME (Indicate Mr., Ms., Mrs.) Mr. Kenneth Stevenson		HOME TELEPHONE (Include Area Code) (310) 762-9934	
STREET ADDRESS 6868 Orcutt, North Long Beach, CA 90805		CITY, STATE AND ZIP CODE 07/18/1967	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME Federal Express		NUMBER OF EMPLOYEES, MEMBERS Cat D (501 +)	
STREET ADDRESS 9339 Ann St, Santa Fe Springs, CA 90670		TELEPHONE (Include Area Code) (800) 479-9957	
CITY, STATE AND ZIP CODE 037		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) ☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST 04/01/2001 06/13/2002 ☒ CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): I. On or about June 27, 1997, I began employment at Federal Express. I currently work as a Courier. From approximately April 1, 2001, and continuing to the present, I have been subjected to different terms and conditions of employment in that I have had my access rights to the Aspire program revoked, and not given back. II. No reason has been given to me for having my access rights to the Aspire program revoked. III. I believe I have been discriminated against due to my race (Black), in violation of Title VII of the Civil Rights Act of 1964, as amended.			
			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct. 6/13/02		SIGNATURE OF COMPLAINANT Ken Stevenson	
Date 6/13/02		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	

EXHIBIT H

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): ☐ FEPA ☒ EEOC 370-2003-09516	
California Department Of Fair Employment & Housing and EEOC State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) Mr. Derrick Satchell		Home Phone No. (Incl Area Code) (209) 835-0439	Date of Birth 12-06-1966
Street Address 960 Cherry Blossom Lane Tracy, CA 95377		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name FEDEX		No. Employees, Members 500 or More	Phone No. (Include Area Code)
Street Address 335 Brokaw Road Santa Clara, CA 95050		City, State and ZIP Code	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) ☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)		DATE(S) DISCRIMINATION TOOK PLACE Earliest 01-01-1993 Latest 08-28-2002 ☐ CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). RECEIVED MAY 06 2003 EEOC-SFDO			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY – When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
May 14, 2003 Date		Charging Party Signature	

STATEMENT

EEOC CHARGE STATEMENT

I, Derrick Satchell, state as follows:

1.

I am 36 years of age. I am African American. I hold Social Security number 330-60-1849. My date of birth is December 6, 1966. I reside at 960 Cherry Blossom Lane, Tracy, CA 95377. My telephone number is 209 835-0439.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 335 Brokaw Road, Santa Clara, California 95050. My job classification is Operation Manager. My immediate supervisor is Robert Motter.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I began my employment with Respondent on or about July 2, 1992.

5.

Beginning on or about 1993, I was subjected to race-based discrimination by Fedex, including among other things, race-based discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, unequal training opportunities and the assignment of more strenuous job duties. This discrimination was and is the result of disparate treatment and/or policies, procedures and practices that have a disparate impact on the basis of race. Even though I was doing the same job duties as my Caucasian co-workers, I was denied promotions that I was qualified to receive, paid less wages, and was more harshly monitored and evaluated than my Caucasian co-workers. I have been employed by Fedex for 9 1/2 years, and I have been denied promotion(s), or held up for promotion(s) for extended periods as a result of discrimination. Similarly, I have and continue to be paid less than Caucasian employees who perform substantially similar work and who have similar or lesser skills or experience. During my employment as Fedex I have repeatedly complained to company officials regarding their failure to promote me, and to provide compensation and terms and conditions of employment equal to

STATEMENT

those provided to my Caucasian co-workers. Despite these complaints, Fedex officials have done little or nothing to address my concerns.

FedEx's discrimination against me continued through August 28, 2002, when I received a final determination on appeal of my termination (via FedEx's internal Guaranteed Fair Treatment appeal process). FedEx upheld the unfair termination.

6.

Fedex and its officials have retaliated against me for complaining about race-based discrimination. Among other things, Fedex has retaliated against me by placing an unwarranted letter in my file.

7.

Respondent, Steve Seymour, Louie Butler, Chris Matthew, and Robert Motter are responsible for the discrimination, disparate treatment and retaliation to which I was subjected while working for Respondent. Furthermore, Respondent, Steve Seymour and Louie Butler are responsible for not taking all reasonable steps to prevent this discrimination from occurring. I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me including discrimination in promotions, compensation and the terms and conditions of employment.

8.

The acts of Respondent were taken primarily by Chris Matthew and Robert Motter, and through certain others as well.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 4-25, 2003


DERRICK SATCHELL

EXHIBIT I

EEOC Form 6 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):



FEPA



EEOC

370-2003-09506

California Department Of Fair Employment & Housing

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Ms. Kalini Boykin

Home Phone No. (Incl Area Code)

(510) 774-9465

Date of Birth

03-02-1974

Street Address

City, State and ZIP Code

111 Mayo Avenue Vallejo, CA 94590

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

FEDEX

No. Employees, Members

500 or More

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

1601 Aurora Drive San Leandro, CA 94577

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

06-01-1997**05-13-2003**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHED CHARGE**RECEIVED****MAY 06 2003****EEOC-SFDO**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

May 13, 2003

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

STATEMENT

EEOC CHARGE STATEMENT

I, Kalini Boykin, state as follows:

1.

I am 28 years of age. I am African American/Tongan. I hold Social Security number 605-01-5020. My date of birth is March 2, 1974. I reside at 111 Mayo Avenue, Vallejo, CA 94590. My telephone number is 510 774-9465.

2.

My complaint is against Fedex (hereinafter "Respondent"), which is located at 1601 Aurora Drive, San Leandro, California 94577. My job classification is Manager. My immediate supervisor is Everett Rey.

3.

Respondent is an entity with 15 or more employees during each of the last 20 calendar weeks.

4.

I began my employment with Respondent on or about May 22, 1995.

5.

Beginning on or about June 1997, I was subjected to race-based discrimination by Fedex, including among other things, race-based discrimination with respect to compensation, promotions, and the terms of conditions of my employment with Fedex, including but not limited to, unequal job assignments, unequal training opportunities and the assignment of more strenuous job duties. This discrimination was and is the result of disparate treatment and/or policies, procedures and practices that have a disparate impact on the basis of race. Even though I was doing the same job duties as my Caucasian co-workers, I was denied promotions that I was qualified to receive. I have been employed by Fedex for 7 years, and I have been denied promotion(s), or held up for promotion(s) for extended periods as a result of discrimination. Similarly, I have and continue to be paid less than Caucasian employees who perform substantially similar work and who have similar or lesser skills or experience. During my employment as Fedex I have repeatedly complained to company officials regarding their failure to promote me, and to provide compensation and terms and conditions of employment equal to those provided to my Caucasian co-workers. Despite these complaints, Fedex officials have

STATEMENT

done little or nothing to address my concerns.

6.

Fedex and its officials have retaliated against me for complaining about race-based discrimination. Among other things, Fedex has retaliated against me by withholding pay raises and giving me unfair workloads.

7.

Respondent, Robert Montez, Angela Miller and Robin Van Galder are responsible for the discrimination, disparate treatment and retaliation to which I was subjected while working for Respondent. Furthermore, Respondent, Robert Montez and Robin Van Galder, are responsible for not taking all reasonable steps to prevent this discrimination from occurring. I am informed and believe that Respondent has a pattern and practice of discriminating against people similarly situated to me including discrimination in promotions, compensation and the terms and conditions of employment.

8.

The acts of Respondent were taken primarily by Robert Montez, Norman Stites, and Angela Miller, but through certain others as well.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 5/07/03, 2003


KALINI BOYKIN

EMPLOYMENT

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

DFEH # E-200203-M-0156-CO-c

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) <u>Ms. Kalini N. Boykin</u>		TELEPHONE NUMBER (INCLUDE AREA CODE) <u>(510) 774-9465</u>	
ADDRESS <u>111 Mayo Ave.</u>			
CITY/STATE/ZIP <u>Vallejo, CA 94590</u>		COUNTY <u>Solano</u>	COUNTY CODE
NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:			
NAME <u>Federal Express Corp.</u>		TELEPHONE NUMBER (Include Area Code) <u>(510) 347-2430</u>	
ADDRESS <u>1601 Aurora Drive</u>			
CITY/STATE/ZIP <u>San Leandro, CA 94590</u>		COUNTY <u>Memphis TN</u>	COUNTY CODE
NO. OF EMPLOYEES/MEMBERS (if known) <u>20,000</u>	DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) <u>7/3/02</u>		RESPONDENT CODE

THE PARTICULARS ARE:

On July 3, 2002 I was

☐ fired	☐ denied employment	☐ denied family or medical leave
☐ laid off	☐ denied promotion	☐ denied pregnancy leave
☐ demoted	☐ denied transfer	☒ denied equal pay
☐ harassed	☐ denied accommodation	☐ denied right to wear pants
☐ genetic characteristics testing	☐ impermissible non-job-related inquiry	☐ denied pregnancy accommodation
☐ forced to quit	☐ other (specify)	

by Robin Van Gelder Managing Director

Name of Person Job Title (supervisor/manager/personnel director/etc.)

because of my:

☐ sex	☐ national origin/ancestry	☐ physical disability	☐ cancer	☒ (Circle one) filing primarily participating in investigation (initiation for retention
☐ age	☐ marital status	☐ mental disability	☐ genetic characteristic	
☐ religion	☐ sexual orientation	☒ other (specify) <u>speaking out for a job retention</u>		
☐ race/color	☐ association			

the reason given by

Name of Person and Job Title

Was because of (please state what you believe to be reason(s)) When applying for a promotion I did not immediately receive, I protested and fought internally against Mr. VanGelder's associates.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated July 31, 2002

Kelly

COMPLAINANT'S SIGNATURE

At Oakland, CA

City

DATE FILED: 07/31/02

RECEIVED

JUL 31 2002

STATE OF CALIFORNIA

DFEH-300-03 (07/01)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

Department of Fair
Employment and Housing

James M. Finberg (SBN 114850)
Bill Lann Lee (SBN 108452)
Lexi J. Hazam (SBN 224457)
LIEFF, CABRASER, HEIMANN &
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Waukeen Q. McCoy (SBN 168228)
Kelly Armstrong (SBN 213036)
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Attorneys for Plaintiffs and the Proposed Classes

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Kay McKenzie Parker (SBN 143140)
1318 East Shaw Avenue, Suite 415
Fresno, CA 93710
Telephone: (559) 222-1509
Facsimile: (559) 222-9045

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DERRICK SATCHELL, KALINI Boykin,
VALERIE BROWN, RICK GONZALES,
CYNTHIA GUERRERO, RACHEL
HUTCHINS, DANIEL SHERMAN,
KELVIN SMITH, SR., and KEN
STEVENSON, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

FEDEX EXPRESS, a Delaware
corporation,

Defendant.

Case No. C 03-2659 SI; C 03-2878 SI

**PROOF OF SERVICE BY ELECTRONIC
FILING**

I, Lee Schuring, declare as follows:

I am employed in the law firm of Lief, Cabraser, Heimann & Bernstein, LLP, whose address is Embarcadero Center West, 275 Battery Street, 30th Floor, San Francisco, California 94111-3339. I am readily familiar with the business practices of this office. At the time of transmission I was at least eighteen years of age and not a party to this action.

On November 12, 2003, by electronic transmission via United States District Court Northern District of California Electronic Case Filing, I served a copy of the within document(s):

1. **CONSOLIDATED AMENDED COMPLAINT FOR VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964; 42 U.S.C. § 1981; CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT;**
and

2. **PROOF OF SERVICE BY ELECTRONIC FILING**

Service is on the following interested parties in the within action:

Waukeen McCoy
Kelly Armstrong
LAW OFFICES OF WAUKEEN Q.
MCCOY
703 Market Street, Suite 1407
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1 I declare under penalty of perjury under the laws of the State of California that the
2 above is true and correct and that this declaration was executed on November 12, 2003.

3
4 /s/ Lee Schuring

Lee Schuring