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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 ROBERT RAMIREZ, ROBERT HARRIS, LUIS)
POCASANGRE CARDOZA, JOSE SALCEDO,)
16 A. SHAPPELLE THOMPSON, CORETTA)
SILVERS (formerly VICK), SANDRA EVANS,)
17 BLANCA NELLY AVALOS, JAMES MORGAN)
and ANTHONY JONES, on behalf of themselves)
18 and all others similarly situated.

19 Plaintiffs,

20 vs.

21 CINTAS CORPORATION,

22 Defendants.
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Case No. C04-0281-JSW

**FOURTH AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

Complaint filed January 20, 2004

1 Plaintiffs Robert Ramirez, Robert Harris, Luis Pocasangre Cardoza, Jose Salcedo, A. Shappelle
 2 Thompson, Coretta Silvers (formerly Vick), Sandra Evans, Blanca Nelly Avalos, James Morgan and
 3 Anthony Jones, for themselves and all other persons similarly situated, complain of defendant Cintas
 4 Corporation ("Cintas" or the "Company") as follows.

5 **NATURE OF THE CASE**

6 1. This is an employment discrimination case, brought pursuant to the provisions of the
 7 Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 ("Section
 8 1981"); Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e, et seq., as amended ("Title
 9 VII"); the California Fair Employment and Housing Act, Government Code §§12940, et seq.
 10 ("FEHA"); and the California Unfair Business Practices Act, Business and Professions Code §17200
 11 et seq., also known as the Unfair Competition Law ("UCL"). Plaintiffs allege that defendant Cintas
 12 has engaged in, and continues to engage in, a company-wide pattern and practice of employment
 13 discrimination, both intentional and systemic, on the basis of race, national origin, and sex, against
 14 themselves and a class of similarly situated African American, Hispanic, and female employees,
 15 former employees, and applicants for employment as alleged in this Complaint. Cintas' discriminatory
 16 practices include, but are not limited to, discrimination in recruitment, hiring, promotion, transfer, job
 17 assignment, and compensation, on a classwide basis as alleged in this Complaint. Plaintiffs seek
 18 declaratory, injunctive, and equitable monetary relief from these practices; compensatory and punitive
 19 damages; equitable remedies of accounting, restitution and disgorgement; and an award of costs,
 20 expenses, and attorneys' fees; all for themselves individually and on behalf of the class or classes they
 21 seek to represent.

22 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

23 2. Jurisdiction. This Court has original jurisdiction of plaintiffs' Section 1981 claims
 24 pursuant to 28 U.S.C. §§1331 and 1343(a)(4). The Court has original jurisdiction of plaintiffs' Title
 25 VII claims pursuant to those two provisions as well as 42 U.S.C. §2000e-5(f)(3). The Court has
 26 supplemental jurisdiction of plaintiffs' FEHA and UCL claims pursuant to 28 U.S.C. §1367.
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3. Venue. Venue is proper in this District pursuant to 28 U.S.C. §1391(c) and 42 U.S.C. §2000-5(f)(3). Cintas is subject to personal jurisdiction in this District in that it maintains facilities and business operations in this District, employs or employed plaintiffs Luis Pocasangre Cardoza, James Morgan and members of the class in this District, and committed some of the discriminatory acts alleged herein in this District.

4. Intradistrict Assignment. Venue is proper in the San Francisco Division of this Court pursuant to Local Rule 3-2(c) - (d) because a substantial part of the events which give rise to the claims asserted in this Complaint occurred in Alameda County. In particular, Cintas employed plaintiffs Pocasangre Cardoza and James Morgan, and employs, employed, or rejected employment applications of, other class members in its facility in San Leandro, Alameda County, California, and there committed acts of discrimination in employment as alleged in this complaint.

PARTIES

5. The named plaintiffs are current and former employees, or rejected applicants for employment, of defendant Cintas.

6. Plaintiff Luis Pocasangre Cardoza is a Hispanic male and a resident of Oakland, California, within this District. He was born in El Salvador. Mr. Pocasangre Cardoza worked for Cintas as a loader at its San Leandro, California facility in 2003. In or about July 2003, Cintas discriminatorily refused to hire and then promote plaintiff Pocasangre Cardoza to a driver position at that facility, because of his race and national origin. Mr. Pocasangre Cardoza resigned on or about August 6, 2003 as a result of the discrimination. On or about November 18, 2003, plaintiff Pocasangre Cardoza filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission (EEOC). On or about June 9, 2004, the EEOC issued him a notice of Right to Sue on that Charge. Copies of that Charge and Notice are attached to this complaint as Exhibits 1A and 1B, respectively.

7. Plaintiff Robert Ramirez is a Hispanic male and a resident of Las Vegas, Nevada. He was born in Mexico. Mr. Ramirez worked for Cintas in its Las Vegas, Nevada facility as a driver and production supervisor from on or about July 6, 1992 until his termination in or about July 2003.

1 Because of his race and national origin, Cintas reduced Mr. Ramirez's pay in 2000, denied him pay
2 raises and promotions between 2002 and 2003, and ultimately terminated him in or about July 2003.
3 On or about November 18, 2003, plaintiff Ramirez filed a Charge of Discrimination with the EEOC.
4 On or about June 7, 2004, the EEOC issued Mr. Ramirez a Notice of Right to Sue on his Charge.
5 Copies of that Charge and Notice are attached as Exhibits 2A and 2B, respectively.

6 8. Plaintiff Sandra Evans is an African American female and a resident of Brookside,
7 Pennsylvania. From on or about March 2002 to the present, Ms. Evans has worked for Cintas in the
8 stockroom at its Aston, Pennsylvania facility, applying emblems to uniforms. In or about April 2002,
9 Cintas hired a white employee to work in a comparable position in the stockroom and paid her a higher
10 hourly wage than plaintiff Evans. Cintas paid, and continues to pay, Ms. Evans a lower hourly wage
11 than the white coworker because of Ms. Evans' race. On or about November 17, 2003, plaintiff Evans
12 filed a Charge of Discrimination with the EEOC. On or about August 17, 2004, the EEOC issued her a
13 Right to Sue letter on her charge. Copies of that Charge and Notice are attached as Exhibits 3A and
14 3B, respectively.

15 9. Plaintiff Robert Harris is an African American male and a resident of Rochester, New
16 York. He was employed by Cintas as a loader in its Rochester, New York facility from in or about
17 April or May 2003 to October 2003. Because of his race, Cintas refused to hire plaintiff Harris as a
18 driver in or about April or May 2003, refused to promote him to the position of driver after hiring him
19 as a loader, and terminated him on or about October 9, 2003. On or about November 18, 2003,
20 plaintiff Harris filed a Charge of Discrimination with the EEOC. On or about May 21, 2004, the
21 EEOC issued him a Notice of Right to Sue on his Charge. Copies of that Charge and Notice are
22 attached as Exhibits 4A and 4B, respectively.

23 10. Plaintiff Jose Salcedo is a Hispanic male and a resident of Freeport, New York. He was
24 born in the Dominican Republic. He was employed by Cintas at its Central Islip, New York facility as
25 a production supervisor from in or about November 1999 to October 2002. Because of his race and
26 national origin, Cintas denied plaintiff Salcedo promotion to the position of plant manager in or about
27 March 2002, reassigned him to a less desirable shift in or about June 2002 and terminated him on or
28 about October 9, 2002.

1 11. Plaintiff A. Shappelle Thompson is an African American male and a resident of
2 Rochester, New York. He worked for Cintas as a driver at its Rochester, New York facility from in or
3 about April 2000 to January 2002. Because of his race, Cintas took away one of Mr. Thompson's
4 better accounts in or around June 2001, reassigned him to an undesirable route in or about November
5 2001, and terminated him in or about January 2002.

6 12. Plaintiff Coretta Silvers (formerly Vick) is an African American female and a resident
7 of Raleigh, North Carolina. She worked for Cintas in an accounts receivable position at its Raleigh,
8 North Carolina facility from approximately July 5, 2002 to approximately February 5, 2003. Because
9 of her race, Cintas paid plaintiff Silvers less than a white co-worker with the same position and job
10 duties. On or about January 8, 2004, plaintiff Silvers (then Vick) filed a charge of Discrimination with
11 the EEOC. On or about June 28, 2004, the EEOC issued her a Notice of Right to Sue on her Charge.
12 Copies of that Charge and Notice are attached as Exhibits 5A and 5B, respectively.

13 13. Plaintiff Blanca Nelly Avalos is a Hispanic female and a resident of Panorama City,
14 California. She was born in Ecuador. Cintas refused to hire plaintiff Avalos as a driver at its Van
15 Nuys, California facility in or around early 2004 because of her sex and national origin. On or about
16 June 23, 2004, plaintiff Avalos filed a Charge of the Discrimination with the EEOC. On or about
17 October 26, 2004, the EEOC issued her a Right to Sue letter on her Charge. Copies of that Charge and
18 Notice are attached as Exhibits 6A and 6B, respectively.

19 14. Plaintiff James Morgan is an African American male and a resident of Hayward,
20 California. Mr. Morgan was employed by Cintas from on or about December 27, 1999 to March 26,
21 2004 as a driver in its San Leandro, California facility. Cintas paid plaintiff Morgan less than white
22 drivers by assigning him inferior low volume delivery routes and assigning him a low Key
23 Performance Indicators percentage, which were the two key determinants of a driver's compensation,
24 because of his race. Although Morgan was designated as a Certified Route Trainer (CRT), he was not
25 given the duties or compensation of that position due to Cintas' refusal to assign trainees to Mr.
26 Morgan, which were regularly assigned to white CRTs, because of his race. As a result of these
27 discriminatory practices, which were intolerable, Mr. Morgan was constructively discharged on or
28 about March 26, 2004. On or about December 29, 2004, plaintiff Morgan filed a Charge of

1 Discrimination with the EEOC. On or about July 15, 2005, the EEOC issued him a Right to Sue letter
2 on his Charge. Copies of that Charge and Notice are attached as Exhibits 7A and 7B, respectively.

3 15. Plaintiff Anthony Jones is an African American male and a resident of Camden,
4 Delaware. Because of his race, Cintas refused to hire plaintiff Jones as a driver at its Dover, Delaware
5 facility between November 2004 and February 10, 2005 despite his qualifications for the position. On
6 or about May 11, 2005, plaintiff Jones filed a Charge of Discrimination with the EEOC. On or about
7 June 24, 2005, the EEOC issued him a Right to Sue letter on his Charge. Copies of that Charge and
8 Notice are attached as Exhibits 8A and 8B, respectively

9 Defendant

10 16. Cintas is a national corporation headquartered in Cincinnati, Ohio. For fiscal year 2004,
11 Cintas reported more than \$2.8 billion in sales and over \$272 million in profits.

12 17. Defendant Cintas' major business involves renting uniforms, mats, and towels to
13 commercial enterprises. Cintas' production workers clean, repair, hang and assemble the uniforms and
14 materials to be delivered to the customers. Drivers, also known as service sales representatives (SSRs)
15 deliver clean clothing, mats and towels to customers and pick up dirty items from customers.

16 18. Defendant Cintas has more than 27,000 employees and operates approximately 344
17 rental facilities across the country in its Rental Division.

18 19. The employees in Cintas' Rental Division rental facilities can be grouped into five
19 categories: (a) production, or laundry, workers; (b) service department workers, including drivers, or
20 SSRs, and helpers; (c) sales employees; (d) office and human resource employees; and (e) supervisors
21 and managers.

22 20. Cintas operates under a nationwide business plan that is established at its headquarters
23 in Cincinnati, Ohio and similarly implemented at each of its Rental Division facilities throughout the
24 country, which plan includes strategies and programs regarding methods of operation and service
25 systems.

26 21. Cintas has developed and continually reinforces a centralized corporate culture that is
27 implemented at each of its Rental Division facilities throughout the country. Cintas regularly moves
28 upper level managers from one Rental Division facility to another, and often from one state to another.

1 This practice is done in part to ensure that a uniform Cintas culture operates consistently throughout all
2 of its Rental Division facilities.

3 **FACTS RELATING TO THE PATTERN OF INTENTIONAL AND**
4 **SYSTEMIC DISCRIMINATION BY DEFENDANT CINTAS**

5 22. Defendant Cintas' employment practices and systems discriminate against African
6 American, Hispanic and female employees and applicants for employment, because of their race,
7 national origin and/or sex, in Rental Division facilities. The discriminatory practices engaged in by
8 Cintas' Rental Division are intentional and systemic in nature, and adversely affect plaintiffs and
9 members of the class with respect to opportunities for hiring, promotion, transfer, job assignment,
10 compensation, and other terms and conditions of employment, as specifically summarized below

11 23. According to Cintas 2004 Annual Report, Cintas' upper level management, with the
12 exception of a few women, is comprised almost exclusively of white men. The homogenous racial and
13 gender composition of Cintas' management at the highest levels is reflected in management throughout
14 the facilities in the Rental Division, which also is predominantly white and male.

15 24. Upper level white male managers have communicated Cintas' discriminatory policies
16 and practices in explicit terms to lower level managers who make personnel decisions. For example,
17 regional vice president John Milligan instructed managers at the Painesville, Ohio facility to reduce the
18 number of Hispanic workers, saying "knock off this Mexican crap."

19 25. White male managers have echoed these biased sentiments. For example, Painesville,
20 Ohio general manager Al Kocsis directed his white managers and supervisors to hire "people who look
21 like you and me" because Hispanics "don't share our values" and "don't come from the same culture."
22 Mr. Kocsis also derisively commented that the plant looked like a "little Havana" and that the Hispanic
23 employees were "stinking up the cafeteria" with the "kind of crap they are eating in there."

24 26. White male managers have also made racially and ethnically derogatory and offensive
25 comments and other statements evidencing their animus and bias against African Americans and
26 Hispanics. For example, Mike Palo, general manager of Cintas' Irvington, New Jersey facility,
27 frequently referred to black employees as "niggers" and often stated that he was "black from the waist
28 down." A sales service manager at Cintas' Houston, Texas facility stated that "it didn't look good to

1 have blacks and Hispanics on the trucks.” The plant manager at the same facility stated that Hispanics
2 didn’t have a “tidy appearance.” Brian Dudley, a service training coordinator in Cintas’ Springfield,
3 Missouri facility, said in a sales meeting that Cintas facilities in Arkansas would not hire blacks
4 because customers would not like it.

5 27. Similarly negative statements have been made about the employment of women for
6 SSR positions in Cintas’ Rental Division. Scott Thomas, a production supervisor in Michigan, told a
7 female employee who wanted to become a driver that the “job was too hard for women.”

8 28. Senior Cintas officials, managers, and supervisors have made sexually derogatory and
9 offensive comments and other statements evidencing their animus and bias against women. For
10 example, Mike Palo, general manager of Cintas’ Irvington, New Jersey facility, frequently referred to
11 women as “sluts.”

12 **A. Discrimination Against Hispanic Supervisors in Promotions, Transfers and Job**
13 **Assignments**

14 29. Management and supervisory jobs at the rental facilities include: general manager or
15 branch manager, production manager, service sales manager, production supervisor, sales manager,
16 and office manager.

17 30. Hispanic salaried supervisors are discriminated against in promotion or transfer to these
18 supervisory and managerial positions

19 31. Through at least the end of 2004, Cintas did not post supervisory and managerial
20 positions available in its Rental Division. When Cintas filled open positions from its pool of current
21 employees, it typically used a “tap on the shoulder” method under which the predominantly white male
22 managers made subjective and biased decisions to fill supervisory and managerial positions with non-
23 Hispanic employees. Consequently, open supervisory and managerial positions were unknown to
24 Hispanic employees who are not given an opportunity to apply and compete equally for these
25 positions.

26 32. Hispanic salaried supervisors are discriminated against in the scope and extent of their
27 job assignments as a result of subjective and biased decisions made by predominately white male
28 managers.

1 **B. Discrimination against Women, African Americans and Hispanics in Hiring to SSR**
2 **Positions.**

3 33. Drivers, also known as service sales representatives (SSRs), work in the service
4 department at Rental Division facilities. They deliver clean uniforms, mats, and towels to clients and
5 pick up dirty items, which they return to the facility for laundering. Drivers are the key contacts for
6 developing good relationships with Cintas' customers. A critical part of their job duties entails selling
7 additional products and services to existing Cintas customers. Drivers are the highest paid non-
8 supervisory workers in the Rental Division.

9 34. African Americans, Hispanics and women are discriminated against in hiring to SSR
10 positions in Cintas' Rental Division.

11 35. Cintas does not have uniform practices or objective standards or criteria for making
12 hiring decisions for SSR positions in its Rental Division. Cintas managers are free to make those
13 employment decisions based on their own subjective preferences rather than objective criteria and
14 individual qualifications. As a result of these practices, African Americans, Hispanics and women are
15 discriminated against in hiring for SSR positions in the Rental Division.

16 36. African Americans and Hispanics are under-represented in the SSR position. While the
17 substantial majority of the production workers are African American and Hispanic, those groups make
18 up only a small fraction of SSRs. For example, on information and belief, in or about July 2003,
19 80-90% of the production workers at Cintas' Las Vegas, Nevada facility were Hispanic, but of the 34
20 SSRs, at the facility, only one was Hispanic, one was African American, one was Asian, and the
21 balance were white.

22 37. Very few women are hired into or assigned to SSR jobs. On information and belief,
23 Cintas employs approximately 5,000 SSRs nationwide, of which only 5% or less are female.
24 Conversely, a substantial majority of the workers employed in production jobs in the Rental Division
25 facilities are female.

26 38. Helpers are assigned to work with some SSRs in the Rental Division. The helpers ride
27 the routes with the SSRs and assist with heavy lifting. The helpers are almost always men and most
28

1 often Hispanic or African American. Notwithstanding their qualifications for SSR positions, helpers
2 rarely are moved into SSR positions.

3 39. As part of the hiring process for SSR positions, applicants are taken for a day long "ride
4 along" with a current SSR. The SSRs who take applicants for a ride along, almost all of whom are
5 men, and most of whom are white, are often able to effectively veto the applicant's hire. On
6 information and belief, SSRs are not given objective or standardized criteria to use in evaluating the
7 fitness of applicants for the job. Those SSRs often exercise that power against minority and/or female
8 applicants in a biased manner.

9 40. Cintas also may require applicants for SSRs positions to take a written test that may
10 have a disparate impact on African Americans and Hispanics.

11 **C. Discrimination Against African Americans in SSR Positions in Compensation and Route**
12 **Assignments.**

13 41. SSR compensation is determined by two key factors: route volume and Key
14 Performance Indicator (KPI) percentages, both of which are influenced to a large extent by route
15 assignments. Some routes have a higher volume and are more lucrative than others. Industrial or
16 garment routes involve the delivery of uniforms, mats, and towels. Facilities services or bulk routes
17 involve the delivery of mats and towels only. Facilities services routes generate less income than do
18 industrial routes. Additionally, some routes are longer, further away from Cintas facilities, have fewer
19 stops, and/or have customers with smaller accounts, all of which require the SSRs to work longer hours
20 without generating additional income.

21 42. Cintas does not have a system for distribution of routes to SSRs that is based on
22 objective criteria. Rather, routes are distributed in a biased manner by mostly white male managers
23 based on their own subjective decision-making. As a result, African American SSRs in Cintas' Rental
24 Division are more likely to be assigned less lucrative routes, routes that require more travel and longer
25 hours, and routes that go through low income and minority neighborhoods.

26 43. Cintas does not have a system for setting the KPI percentages for SSRs that is based on
27 objective criteria and/or is not subject to manipulation. Rather, KPI percentages are set in a biased
28 manner by mostly white male managers based on their own subjective decision-making. As a result,

1 African American SSRs are more likely to have lower KPI percentages than similarly situated white
2 drivers, whose KPI percentages are adjusted upwards to compensate for low volume route.

3 44. SSRs who are selected as Certified Route Trainers (CRTs) receive additional
4 compensation for training new SSRs. Cintas does not have a system for distributing training
5 assignments to the CRTs. Rather, training assignments are distributed in a biased manner by mostly
6 white male managers based on their own subjective decision-making. As a result, African American
7 CRTs in Cintas' Rental Division receive fewer training assignments and earn less compensation than
8 white CRTs.

9 **D. Discrimination in Compensation against African American Non-Exempt Employees in**
10 **Cintas' Rental Division Facilities.**

11 45. Cintas discriminates against non-exempt African American employees with regard to
12 pay in its Rental Division facilities.

13 46. African American non-exempt employees in the Rental Division are paid less than
14 similarly situated non-African American non-exempt employees for similar work and job performance.
15 The amount of compensation an employee receives is not determined by any objective criteria or
16 standards, but rather is determined by subjective, arbitrary and capricious decision-making by Cintas'
17 nearly all white male managers in the Rental Division. This subjective system results in African
18 American non-exempt employees in the Rental Division receiving less compensation than similarly
19 situated white non-exempt employees.

20 **CLASS ACTION ALLEGATIONS**

21 47. Plaintiffs bring their claims under Section 1981, Title VII, and FEHA as a class action
22 pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of
23 themselves and all others similarly situated, as more specifically described below.

24 48. The plaintiffs seek to represent a class, of which they are members, consisting of:

25 a. Women who were denied hiring to service sales representative (SSR) positions
26 in Cintas' Rental Division during the limitations period;

27 b. African Americans who were denied hiring to service sales representative (SSR)
28 positions in Cintas' Rental Division during the limitations period;

1 c. Hispanics who were denied hiring to service sales representative (SSR) positions
2 in Cintas' Rental Division during the limitations period;

3 d. African Americans who have held service sales representative (SSR) positions
4 in Cintas' Rental Division during the limitations period and who have been subjected to Cintas'
5 discriminatory practices with regard to SSR route assignments and compensation;

6 e. African Americans who have held non-exempt positions in Cintas' Rental
7 Division during the limitations period and who have been subjected to Cintas' discriminatory
8 compensation practices; and

9 f. Hispanics who have held positions as exempt supervisors or managers in Cintas'
10 Rental Division below the General Manager (or Branch Manager or equivalent) position during the
11 limitations period who have been subjected to Cintas' discriminatory practices with regard to
12 opportunities for promotion out of those positions and the scope and extent of their job assignments.
13 As used in this paragraph, "promotion" includes transfer to another position that would provide
14 additional wages, benefits, better working conditions, or an opportunity for career development,
15 additional training, or experience that might reasonably lead to future advancement.

16 49. Plaintiffs Pocasangre Cardoza, Avalos, and Morgan seek to represent a subclass, of
17 which they are members, consisting of:

18 a. Women who were denied hiring to service sales representative (SSR) positions
19 in Cintas' Rental Division in California during the limitations period;

20 b. Hispanics who were denied hiring to service sales representative (SSR) positions
21 in Cintas' Rental Division in California during the limitations period; and

22 c. African Americans who have held an SSR position in Cintas' Rental Division in
23 California during the limitations period and who have been subjected to Cintas' discriminatory
24 practices with regard to SSR route assignments and compensation.

25 50. The named plaintiffs as class representatives and subclass representatives, and the class
26 and subclass as defined above, meet each of the requirements of rule 23(a), 23(b)(2), and 23(b)(3) of
27 the Federal Rules of Civil Procedure for certification of this case as a class action, for the reasons
28 stated below.

1 51. Rule 23(a)(1) – Numerosity. The exact number of members of the class and subclass is
2 not known at present, and will be determined through discovery. It is estimated that there are hundreds
3 or thousands of African Americans, hundreds or thousands of Hispanics, and hundreds or thousands of
4 women, who are class members or subclass members. In addition, the class members are spread
5 throughout the regions and states of the country, and are located in dozens of separate facilities as
6 employees and communities as potential employees. The class and subclass are therefore so numerous
7 and so situated that individual joinder of class members and subclass members is impracticable.

8 52. Rule 23(a)(2) – Commonality. There are numerous common questions of fact and law
9 in this action that relate to and affect the claims of relief sought by the class and subclass, as well as the
10 anticipated defenses thereto. These common questions include, without limitation, the following:

11 a. Whether women, African Americans and Hispanics were denied hiring to
12 service sales representative (SSR) positions in Cintas' Rental Division during the limitations period
13 because of their gender, race or national origin;

14 b. Whether African Americans who have held a service sales representative (SSR)
15 position in Cintas' Rental Division during the limitations period have been discriminated against in
16 route assignments and compensation because of their race;

17 c. Whether African Americans who have held non-exempt positions in Cintas'
18 Rental Division during the limitations period have been discriminated against in compensation because
19 of their race;

20 d. Whether Hispanics who have held positions as exempt supervisors or managers
21 below a General Manager (or Branch Manager or equivalent) position in Cintas' Rental Division
22 during the limitations period have been discriminated against in opportunities for promotion out of
23 those positions;

24 e. Whether Cintas has given decision-making authority in the above-described
25 personnel matters to managers who exercise uncontrolled, unsupervised discretion that provides a
26 ready means for discrimination, and whether that authority is used to discriminate in decision-making;

f. Whether there is a pattern or class-wide practice in Cintas' above-described decision-making in personnel matters of intentional race and national origin discrimination against African Americans and Hispanics, and of sex discrimination against women;

g. Whether statistical analyses of the compensation of African Americans in non-exempt positions, Hispanics in supervisory and managerial positions, and African Americans in SSR positions show adverse impact;

h. Whether statistical analyses of applicant flow, labor market and selection data of African Americans, Hispanics and women in SSR positions show adverse impact;

i. Whether the above-described policies and practices of Cintas' Rental Division result in adverse impact against African Americans, Hispanics, and/or women; and if so, whether they are job-related and consistent with business necessity;

j. What relief is appropriate to remedy the claims of plaintiffs and the class resulting from Cintas' above-described discriminatory employment practices pursuant to Title VII, FEHA and the UCL;

k. The appropriate standards for grant of injunctive relief, both equitable and in the form of damages, to remedy Cintas' above-described discriminatory employment practices;

l. Whether, as a result of Cintas' above-described discriminatory practices, plaintiffs and the class suffered lost wages and other monetary damages;

m. Whether Cintas' above-described discriminatory actions are "intentional" within the meaning of authorities applying Section 1981 and 42 U.S.C. §1981a(a)(1); and

n. Whether Cintas acted with malice or reckless indifference by the above-described discrimination against plaintiffs and the class and subclass in the face of a perceived risk that its actions would violate their rights such that an award of punitive damages to the class and subclass is appropriate; and, if so, how such award should be determined and distributed to members of the class and subclass

53. Rule 23(a)(3) – Typicality. The claims of the named plaintiffs, who are representatives of the class and subclass, are typical of the claims of the class and subclass. The named plaintiffs have been personally affected and discriminated against by the same practices that plaintiffs allege in this

1 complaint have harmed the class and subclass as a whole and other class and subclass members
2 individually.

3 54. Rule 23(a)(4) – Adequacy. The named plaintiffs will fairly and adequately represent
4 the interests of the class and subclass. There is no conflict between any named plaintiff and other
5 members of the class or subclass with respect to this action or the claims for relief set forth in this
6 complaint. The attorneys for the plaintiffs are experienced and competent in representation of classes
7 in employment discrimination actions, and they have and will devote adequate staff and other
8 resources to the case.

9 55. Rule 23(b)(2) – Case Maintainable Under this Rule. This action is properly maintained
10 as a class action pursuant to subsection (b)(2) of Rule 23 in that defendant Cintas has acted or refused
11 to act on grounds which are generally applicable to the class and subclass, in particular race, national
12 origin, and/or sex, thereby making appropriate injunctive relief and corresponding declaratory relief
13 with respect to the class and subclass as a whole.

14 56. Rule 23(b)(3) – Case Maintainable Under this Rule. This action is also properly
15 maintained as a class action pursuant to subsection (b)(3) of Rule 23, particularly with respect to the
16 claims of class and subclass members for damages. With respect to those claims, questions of law and
17 fact common to the members of the class and subclass predominate over questions affecting only
18 individual class and subclass members; and a class action is superior to other available methods for the
19 fair and efficient adjudication of the controversy. Individual class and subclass members have minimal
20 interest in individually maintaining or controlling separate actions in this case; no other litigation has
21 been commenced asserting the interests and claims advanced in this case; interests of fairness,
22 efficiency, and consistency of outcome will be served by concentrating the litigation of the class and
23 subclass members' claims in this particular forum and action; this case will be manageable as a class
24 action, and far more easily manageable than the multiplicity of individual actions in different
25 jurisdictions that would result if this case is not permitted to proceed as a class action.
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**FIRST CAUSE OF ACTION -- VIOLATION OF 42 U.S.C. §1981
(ON BEHALF OF THE AFRICAN AMERICAN AND HISPANIC
PLAINTIFFS AND MEMBERS OF THE CLASS)**

57. Plaintiffs repeat and reallege and incorporate by this reference the allegations set forth in paragraph 1 through 56, inclusive, as though fully set forth herein.

58. Defendant's discrimination against Robin Beasley, Sandra Evans, Robert Harris, Luis Pocasangre Cardoza, Robert Ramirez, Jose Salcedo, A. Shappelle Thompson, Coretta Silvers (formerly Vick), Blanca Nelly Avalos, James Morgan, and Anthony Jones and the members of the class, is in violation of the rights of plaintiffs and the class afforded them by the Civil Rights Act 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991.

59. By the conduct described above, defendant Cintas intentionally deprived the above-named African American and Hispanic members of the class of the same rights as are enjoyed by white citizens to the creation, performance, enjoyment, and all benefits and privileges, of their contractual employment relationship with Cintas, in violation of 42 U.S.C. §1981.

60. As a result of defendant Cintas' discrimination in violation of Section 1981, the African American and Hispanic plaintiffs and members of the class have been denied employment opportunities providing substantial compensation and benefits, thereby entitling them to injunctive and equitable monetary relief; and have suffered anguish, humiliation, distress, inconvenience and loss of enjoyment of life because of Cintas' actions, thereby entitling them to compensatory damages.

61. In its discriminatory actions as alleged above, Cintas has acted with malice or reckless indifference to the rights of the above-named African American and Hispanic plaintiffs and class members, thereby entitling them to an award of punitive damages.

62. To remedy the violations of the rights of plaintiffs and the class secured by Section 1981, plaintiffs request that the Court award them the relief prayed for below.

**SECOND CAUSE OF ACTION -- VIOLATION OF TITLE VII
(ON BEHALF OF PLAINTIFFS AND MEMBERS OF THE CLASS)**

63. Plaintiffs re-allege and incorporate by reference herein the allegations of paragraphs 1 through 62, inclusive, as set forth above.

64. Defendant's discrimination against plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan and Jones and members of the class is in violation of the rights secured to plaintiffs and the class by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e et seq., as amended by the Civil Rights Act of 1991.

65. By the conduct described above, defendant intentionally violated the rights of plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan, and Jones and members of the class under Title VII.

66. Defendant's conduct also has had an adverse impact against plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan and Jones and members of the class, and is neither job-related nor consistent with business necessity, and therefore violates the rights of plaintiffs and members of the class under Title VII.

67. As a result of the violation of the Title VII rights of plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan, and Jones and the class, those plaintiffs and members of the class are entitled to equitable and injunctive relief, including "rightful place" and "make whole" remedies and equitable monetary relief, to remedy and compensate for the effects of defendant's unlawful actions.

68. As a result of the defendant's intentional violation of the Title VII rights of the plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan and Jones and the class, those plaintiffs and members of the class have suffered anguish, humiliation, distress, inconvenience and loss of enjoyment of life, thereby entitling them to compensatory damages.

69. In its discriminatory actions as alleged above, Cintas has acted with malice or reckless indifference to the rights of the above-named African American, Hispanic, and female plaintiffs and class members, thereby entitling them to an award of punitive damages.

70. To remedy the violation of the rights of plaintiffs Pocasangre Cardoza, Ramirez, Evans, Harris, Silvers, Avalos, Morgan, and Jones and the class secured by Title VII, plaintiffs request that the Court award them the relief prayed for below.

**THIRD CAUSE OF ACTION -- VIOLATION OF CALIFORNIA FAIR
EMPLOYMENT AND HOUSING ACT
(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS
WHO RESIDE(D), WORK(ED), OR APPLIED
FOR EMPLOYMENT IN CALIFORNIA)**

71. Plaintiffs re-allege and incorporate by reference herein the allegations of paragraphs 1 through 70, inclusive, as set forth above.

72. Defendant's discrimination against plaintiffs Pocasangre Cardoza, Avalos, and Morgan and members of the class who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment with Cintas in California, is in violation of the rights secured to plaintiffs and the subclass by FEHA, California Government Code §§12940 et seq.

73. By the conduct described above, defendant intentionally violated the rights of plaintiffs Pocasangre Cardoza, Avalos and Morgan and members of the subclass under FEHA.

74. Defendant's conduct also has had an adverse impact on plaintiffs Pocasangre Cardoza, Avalos, and Morgan and members of the subclass, and is neither job-related nor consistent with business necessity, and therefore violates the rights of plaintiffs and members of the subclass under FEHA.

75. As a result of the violation of the FEHA rights of the California plaintiffs and class members who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment with Cintas in California, those plaintiffs and members of the subclass are entitled to equitable and injunctive relief, including monetary relief, compensatory and punitive damages to remedy and compensate for the effects of defendant's unlawful actions and injuries caused by those actions.

76. To remedy the violation of the rights of the California plaintiffs and class members who reside(d) and/or work(ed) in California, and/or applied for employment with Cintas in California, as secured by FEHA, plaintiffs request that the Court award them the relief prayed for below.

**FOURTH CAUSE OF ACTION - VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS CODE/UNFAIR COMPETITION LAW
(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS
WHO RESIDE(D), WORK(ED), OR APPLIED
FOR EMPLOYMENT IN CALIFORNIA)**

77. Plaintiffs re-allege and incorporate by reference herein the allegations of paragraphs 1 through 76, inclusive, as set forth above.

78. The UCL, California Business and Professions Code §§17200 et seq., prohibits “unfair competition.” Under the UCL, “unfair competition” is defined as “any unlawful, unfair or fraudulent business act or practice” Violations of other statutes, including §1981, Title VII, and FEHA, as alleged herein, which constitute unfair, unlawful, or fraudulent business practices, also violate the UCL and give rise to a claim for relief as specified in Business & Professions Code §17203.

79. Plaintiffs Pocasangre Cardoza, Avalos, and Morgan are residents of California and were employed by or applied for an SSR position with defendant Cintas in California within the period actionable under the UCL.

80. Plaintiffs Pocasangre Cardoza, Avalos, and Morgan bring this case as a representative action on behalf of themselves and on behalf of Hispanics, women and African Americans who reside(d) and/or work(ed) for Cintas in California, and/or who applied for an SSR position with Cintas in California, and on behalf of the general public, pursuant to §17204 of the California Business and Professions Code. Under this Cause of Action, plaintiffs seek relief under the UCL only for those plaintiffs and members of the class who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment in California.

81. To remedy the violation of the rights of the California plaintiffs and class members who reside(d) and/or work(ed) for Cintas in California, and/or applied for employment with Cintas in California as secured by the UCL, on behalf of themselves and the general public, and in order to enforce California’s public policy and laws against employment discrimination and to seek restitution and disgorgement of defendant’s ill-gotten gains secured in violation of law, plaintiffs request that the Court award them the relief prayed for below.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that the Court grant relief on their First, Second, Third and Fourth Causes of Action as specified below.

82. Plaintiffs pray that the Court assign the case for hearing(s) at the earliest practicable date(s) and cause the case to be in every way expedited, pursuant to 42 U.S.C. §2000e-5(f)(5).

83. Plaintiffs pray that the Court certify a class defined as:

a. Women who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;

b. African Americans who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;

c. Hispanics who were denied hiring to service sales representative (SSR) positions in Cintas' Rental Division during the limitations period;

d. African American who have held service sales representative (SSR) positions in Cintas' Rental Division during the limitations period and who have been subjected to Cintas' discriminatory practices with regard to SSR route assignments and compensation;

e. African Americans who have held non-exempt positions in Defendant's Rental Division during the limitations period and who have been subjected to Cintas' discriminatory compensation practices; and

f. Hispanics who have held positions as exempt supervisors or managers in Cintas' Rental Division below the General Manager (or Branch Manager or equivalent) position during the limitations period and who have been subjected to Cintas' discriminatory practices with regard to opportunities for promotion out of those positions and the scope and extent of their job assignments.

As used in this paragraph, "promotion" includes transfer to another position that would provide additional wages, benefits, better working conditions, or an opportunity for career development, additional training, or experience that might reasonably lead to future advancement.

Plaintiffs further pray that the Court certify the named plaintiffs and their attorneys as representatives of this class, pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

1 84. Plaintiffs pray that the Court certify a subclass for purposes of relief on the Third and
2 Fourth Causes of Action defined as;

3 a. Women who were denied hiring to service sales representative (SSR) positions
4 in Cintas' Rental Division in California during the limitations period; and

5 b. Hispanics who were denied hiring to service sales representative (SSR) positions
6 in Cintas' Rental Division in California during the limitations period;

7 c. African Americans who have held service sales representative (SSR) positions
8 in Cintas' Rental Division in California during the limitations period and who have been subjected to
9 Cintas' discriminatory practices with regard to SSR route assignments and compensation.

10 d. Plaintiffs further pray that the Court certify the named plaintiffs Pocasangre
11 Cardoza, Avalos and Morgan and their attorneys as representatives of this subclass, pursuant to Rule
12 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure

13 85. Plaintiffs pray that the Court issue a declaratory judgment against defendant Cintas
14 finding that Cintas' Rental Division has violated the rights of plaintiffs and the class and subclass
15 Section under 1981, Title VII, and the FEHA, by denying and depriving plaintiffs, the class, and the
16 subclass of equal employment opportunities on the basis of race, national origin, or sex, as alleged in
17 this complaint; and that the violations of Section 1981, Title VII, and FEHA rights as specified above
18 constitute unfair, unlawful and/or fraudulent business practices in violation of the UCL.

19 86. Plaintiffs pray that the Court issue a preliminary and permanent injunction pursuant to
20 §1981, Title VII, FEHA, and the UCL, enjoining defendant Cintas, its officers, agents, employees, and
21 all others acting for or succeeding Cintas, from engaging in the discriminatory employment practices
22 alleged in this complaint that discriminate against plaintiffs, the class, or the subclass in violation of
23 Section 1981, Title VII, or FEHA, on the basis of race, national origin, or sex.

24 87. Plaintiffs pray that the Court enter a preliminary and permanent injunction ordering and
25 requiring that defendant Cintas formulate, institute, adopt and maintain policies and practices which
26 will provide equal employment opportunities to plaintiffs, the class, the subclass, and future African
27 American, Hispanic and female employees and applicants for employment, and which will to the
28 extent practicable remedy the continuing effects of past discrimination against plaintiffs and the class

1 and subclass, and restore them to the employment status and position they would have held and
2 enjoyed but for the unlawful discrimination complained of herein.

3 88. Plaintiffs pray that the Court award monetary relief as follows:

4 a. On the First Cause of Action, order defendant to pay equitable monetary relief,
5 compensatory and punitive damages to plaintiffs and members of the class on whose behalf claims are
6 asserted under Section 1981 in that Cause of Action, in an amount to be proved at trial;

7 b. On the Second Cause of Action, order defendant to pay equitable monetary
8 relief, compensatory and punitive damages within the limits of 42 U.S.C. §1981a(a)(1) to plaintiffs and
9 members of the class on the claims asserted under Title VII in that Cause of Action, in an amount to be
10 proved at trial;

11 c. On the Third Cause of Action, order defendant to pay equitable monetary relief,
12 compensatory and punitive damages to plaintiffs and class members who reside(d) and/or work(ed) for
13 Cintas in California and/or applied for employment with Cintas in California on the claims asserted
14 under the FEHA in that Cause of Action, in an amount to be proved at trial;

15 d. On the Fourth Cause of Action, order defendant to make restitution to the
16 plaintiffs and members of the public who reside(d) and/or work(ed) for Cintas in California and/or
17 applied for employment with Cintas in California and who were adversely treated and/or affected by
18 Cintas' discriminatory practices, and who were deprived of wages, compensation, fringe benefits, or
19 other monetary benefits as a result of Cintas' violations of law for which the UCL provides such
20 remedies; and to disgorge profits or ill-gotten gains obtained by Cintas from its practices which violate
21 §1981, Title VII, or the FEHA as alleged therein, in an amount to be proved at trial.

22 89. Plaintiffs pray that the Court award them their costs, expenses and attorneys' fees,
23 payable by defendant Cintas, as follows:

24 a. By determining that plaintiffs are prevailing parties on the First, Second, and
25 Third Causes of Action, and thereupon awarding plaintiffs their reasonable costs, expenses, and
26 attorneys' fees incurred in bringing this action, pursuant to 42 U.S.C. §1988 on the First Cause of
27 Action, §1988 and 42 U.S.C. §2000e-5(k) on the Second Cause of Action, and Government Code
28 §12965(b) on the Third Cause of Action.

1 b. By awarding plaintiffs their reasonable costs, expenses, and attorneys' fees on
2 their Fourth Cause of Action based on their creation of a common fund to the benefit of the class, and
3 pursuant to California Civil Code §1021.5 for the benefits, including monetary relief, obtained on
4 behalf of plaintiffs and members of the class who reside(d) and/or work(ed) for Cintas in California
5 and/or applied for employment with Cintas in California, and the general public of California, and for
6 serving as "private attorneys general" in acting to enforce the public policy, interest and law of the
7 State of California.

8 90. Plaintiffs pray that the Court order Cintas to pay pre- and post-judgment interest in all
9 monetary amounts awarded in this action, as provided by law.

10 91. Plaintiffs pray that the Court retain jurisdiction of this case for a sufficient period of
11 time to assure that defendant Cintas has fully complied with the preliminary and permanent injunctions
12 requested herein and has remedied to the greatest extent practicable the discriminatory policies and
13 practices complained of herein, and that Cintas is operating in full compliance with the requirements of
14 §1981, Title VII, the FEHA and the UCL with regard to its employment policies and practices.

15 92. Plaintiffs pray that the Court award such other and further relief as this Court deems
16 equitable and just.

17 Dated: July __, 2005

Respectfully submitted,

18 /s/

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19 Robert S. Libman, #139283

20 Nancy Maldonado

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ATTORNEYS FOR PLAINTIFFS

DEMAND FOR JURY TRIAL

On behalf of themselves and the class and subclass, plaintiffs demand trial by jury on all claims stated in this complaint on which they are entitled to a jury trial.

Dated: May __, 2005

Respectfully submitted,

/s/

Paul Strauss, #153937

One of the Attorneys for Plaintiffs