

[Names and Addresses of Counsel
Appear on Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DERRICK SATCHELL, KALINI
BOYKIN, VALERIE BROWN, RICK
GONZALES, CYNTHIA GUERRERO,
RACHEL HUTCHINS, TYRONE
MERRITT, 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

**SECOND 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”), Tyrone Merritt (“Merritt”), 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 Handlers, Freight Handlers, Material Handlers, Checker/Sorters, Customer Service Agents, Couriers, Swing Drivers, Ramp Transport Drivers, Ramp Area Drivers, Shuttle Drivers, Dangerous Goods Agents, Information Agents, Operations Agents, Ramp Agents, Service Assurance Agents, Truck Control Agents, Trace Representatives, Input Auditors, Team Leaders, and Dispatchers working in FedEx’s Western Region, which includes the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, part of Texas, 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 Operations Managers in FedEx’s Western Region, which includes the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, part of Texas, Utah, Washington, and Wyoming, during the period October 17, 1999 through the date of judgment in this action (“African American Lower-Level Manager Class”).

2. Representative Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Merritt, 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

1 similarly situated non-Minority employees are sometimes initially assigned; (2) providing
2 Minority Employees with fewer promotions to full-time and permanent hourly positions than
3 provided to similarly situated non-Minority employees; (3) providing Minority Employees with
4 fewer promotions to management positions than provided to similarly situated non-Minority
5 employees; (4) providing Minority Employees with less compensation, including less pay for the
6 same work and less overtime, than provided to similarly situated non-Minority employees; and
7 (5) disciplining Minority Employees for petty matters and/or for infractions unsupported or
8 contradicted by credible evidence, for which similarly situated non-Minority employees are not
9 disciplined or are disciplined less harshly.

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

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

25 **JURISDICTION AND VENUE**

26 5. This Court has jurisdiction over this action under 28 U.S.C. § 1331 and
27 42 U.S.C. §§ 2000e-5(f)(3) and 42 U.S.C. § 1981. The action presents federal questions under
28

1 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended, and 42 U.S.C.
2 § 1981. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over plaintiffs’
3 claims under the California Fair Employment and Housing Act, Cal. Gov’t Code §§ 12940, *et*
4 *seq.*

5 6. Venue is proper in this district pursuant to 42 U.S.C. § 2000e5(f) and
6 28 U.S.C. § 1391 (b) & (c). All the named Plaintiffs’ claims, except for those of Plaintiff Merritt,
7 arose in California, and many of the acts complained of herein occurred in this District and gave
8 rise to the claims alleged. Defendant operates over 100 facilities in California and employs
9 thousands of workers in the State of California. Defendant operates at least 10 facilities in the
10 Northern District of California.

11 **THE PARTIES**

12 7. Plaintiff Derrick Satchell is an African American formerly employed by
13 Defendant FedEx Express as a Courier Operations Manager at its distribution facility located at
14 335 Brokaw Road, Santa Clara, California (the “Santa Clara Facility”). Plaintiff Satchell was
15 employed by Defendant from approximately June 1992 until April 16, 2002. Plaintiff Satchell is
16 a resident of Tracy, California.

17 8. Plaintiff Kalini Boykin is an African American currently employed by
18 Defendant as a Ramp Transport Driver (“RTD”) Operations Manager, most recently at its
19 operations facility located at 1254 Davis Street, San Leandro, California (the “San Leandro
20 Facility”). Plaintiff Boykin has been employed by Defendant in several capacities since
21 approximately May 1995. Plaintiff Boykin is a resident of Sacramento, California.

22 9. Plaintiff Valerie Brown is an African American currently employed by
23 Defendant as a part-time Customer Service Agent at 935 Performance Dr., Stockton, California
24 (the “Stockton Facility”). Plaintiff Brown has been employed by defendant FedEx Express at
25 several of its facilities and in several capacities since approximately 1982. Plaintiff Brown is a
26 resident of Tracy, California.

27 10. Plaintiff Rick Gonzales is a Latino formerly employed by Defendant
28 FedEx Express as a Courier at Defendant’s facility located at 9339 Ann Street, Santa Fe Springs,

1 California (the “Santa Fe Springs Facility”). Plaintiff Gonzales was employed by Defendant from
2 approximately May 1988 until September 2002. Plaintiff Gonzales is a resident of Temecula,
3 California. Plaintiffs are informed and believe, and thereon allege, that Plaintiff is eligible for
4 rehire.

5 11. Plaintiff Cynthia Guerrero is a Latina formerly employed by Defendant
6 FedEx Express as a Courier at Defendant’s Santa Fe Springs Facility. Plaintiff Guerrero was
7 employed by Defendant from approximately 1995 to July 2004. Plaintiff Guerrero currently
8 resides in Topeka, Kansas. Plaintiffs are informed and believe, and thereon allege, that Plaintiff
9 is eligible for rehire.

10 12. Plaintiff Rachel Hutchins is an African American formerly employed by
11 Defendant FedEx Express as a part-time, casual Handler at Defendant’s facility located at 2103
12 Airport Drive, Bakersfield, California (the “Bakersfield Facility”). Plaintiff Hutchins was
13 employed by Defendant from approximately December 1995 through April 1996, and from
14 March 2001 through January 2004. Plaintiff Hutchins is a resident of Bakersfield, California.
15 Plaintiffs are informed and believe, and thereon allege, that Plaintiff is eligible for rehire.

16 13. Plaintiff Tyrone Merritt is an African American currently employed by
17 Defendant FedEx Express as a Field Facility Management Specialist, domiciled at Defendant’s
18 facility in New Orleans, Louisiana. From the fall of 2001 to July 2005, he worked as a permanent
19 part-time Handler at Defendant’s facility located at 3002 E. Old Tower Rd., Phoenix, Arizona
20 (the “Phoenix Facility”). Plaintiff Merritt has been employed by Defendant since approximately
21 September 1998. Plaintiff Merritt is currently a resident of Memphis, Tennessee, where he is
22 attending training.

23 14. Plaintiff Kelvin Smith is an African American formerly employed by
24 Defendant FedEx Express as a part-time Lead Handler at Defendant’s Santa Clara Facility.
25 Plaintiff Smith was employed by Defendant from approximately November 1989 to July 2002.
26 Plaintiff Smith is a resident of Apple Valley, California.

27 15. Plaintiff Ken Stevenson is an African American currently employed by
28 Defendant FedEx Express as an Operations Manager at Defendant’s facility located at 201 W.

1 Manville St., Compton, California (the “Compton Facility”). Plaintiff Stevenson has been
 2 employed by Defendant in various positions since approximately May 1997. Plaintiff Stevenson
 3 is a resident of Long Beach, California.

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

10 **CLASS ALLEGATIONS**

11 17. The Representative Plaintiffs bring this class action pursuant to Fed. R.
 12 Civ. P. 23(a), (b)(2), and (b)(3), on behalf of: (1) a “Minority Employee Class” comprising all
 13 African-American and Latino Handlers, Freight Handlers, Material Handlers, Checker/Sorters,
 14 Customer Service Agents, Couriers, Swing Drivers, Ramp Transport Drivers, Ramp Area
 15 Drivers, Shuttle Drivers, Dangerous Goods Agents, Information Agents, Operations Agents,
 16 Ramp Agents, Service Assurance Agents, Truck Control Agents, Trace Representatives, Input
 17 Auditors, Team Leaders, and Dispatchers working in FedEx’s Western Region, which includes
 18 the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New
 19 Mexico, Oregon, part of Texas, Utah, Washington, and Wyoming, during the period October 17,
 20 1999 through the date of judgment in this action; and (2) an “African American Lower-Level
 21 Manager Class” comprising all African-American Operations Managers in FedEx’s Western
 22 Region, which includes the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho,
 23 Montana, Nevada, New Mexico, Oregon, part of Texas, Utah, Washington, and Wyoming, during
 24 the period October 17, 1999 through the date of judgment in this action.

25 **A. Employee Class**

26 18. Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Merritt, Smith, and
 27 Stevenson are members of, and seek to represent, the Minority Employees Class.

28 19. The members of the Minority Employee Class identified herein are so

1 numerous that joinder of all members is impracticable. By the end of 2003, FedEx Express had
2 many tens of thousands of employees. Although the precise number of Minority Employees
3 affected by the discriminatory practices alleged herein is currently unknown, it is far greater than
4 can be feasibly addressed through joinder. The precise number is ascertainable from Defendant's
5 records.

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

23 21. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
24 because FedEx Express has acted and/or refused to act on grounds generally applicable to the
25 Minority Employee Class, making appropriate declaratory and injunctive relief with respect to
26 Plaintiffs Brown, Gonzales, Guerrero, Hutchins, Merritt, Smith, and Stevenson and the Minority
27 Employee Class as a whole. The members of the Minority Employee Class are entitled to
28 injunctive relief to end FedEx Express' common, uniform, and unfair racially discriminatory

1 personnel policies and practices.

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

10 B. **African American Lower-Level Manager Class**

11 23. Plaintiffs Satchell and Boykin are members of, and seek to represent, the
12 African American Lower-Level Manager Class.

13 24. The members of the African American Lower-Level Manager Class
14 identified herein are so numerous that joinder of all members is impracticable. By the end of
15 2003, FedEx Express had many tens of thousands of employees. Although the precise number of
16 African American Lower-Level Managers affected by the discriminatory practices alleged herein
17 is currently unknown, it is far greater than can be feasibly addressed through joinder. The precise
18 number is ascertainable from Defendant's records.

19 25. There are many questions of law and fact common to the African American
20 Lower-Level Manager Class, and these questions predominate over any questions affecting only
21 individual members. Common questions of fact or law include, among others: (1) whether
22 FedEx Express' policies or practices have a disparate impact on African American Lower-Level
23 Managers with respect to (a) compensation, (b) promotion to senior management, and
24 (c) discipline; (2) whether any disparate impact is justified by business necessity; (3) whether the
25 disparate impact constitutes a violation of Title VII of the 1964 Civil Rights Act, 42 U.S.C.
26 § 2000e et seq.; (4) whether FedEx Express has intentionally discriminated against African
27 American Lower-Level Managers with respect to (a) compensation, (b) promotion to senior
28 management, and (c) discipline; (5) whether FedEx Express has engaged in a pattern and practice

1 of disparate treatment adverse to African American Lower-Level Managers; (6) whether that
2 disparate treatment violates Title VII of the 1964 Civil Rights Act; (7) whether defendant's
3 intentional discrimination against African American Lower-Level Managers violates 42 U.S.C.
4 § 1981; (8) whether, as to African American Lower-Level Managers who have been employed or
5 reside in California, FedEx Express' policies or practices violate Section 12940, *et seq.*, of the
6 California Government Code, known as the Fair Employment and Housing Act ("FEHA"); and
7 (9) whether injunctive relief and other equitable remedies (including back pay and front pay) and
8 compensatory and punitive damages are warranted for the African American Lower-Level
9 Manager Class.

10 26. The claims of Representative Plaintiffs Satchell and Boykin are typical of
11 the claims of the African American Lower-Level Manager Class.

12 27. Representative Plaintiffs Satchell and Boykin will fairly and adequately
13 represent and protect the interests of the members of the African American Lower-Level Manager
14 Class. Plaintiffs have retained counsel competent and experienced in complex class actions and
15 employment discrimination litigation.

16 28. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
17 because FedEx Express has acted and/or refused to act on grounds generally applicable to the
18 African American Lower-Level Manager Class, making appropriate declaratory and injunctive
19 relief with respect to Plaintiffs Satchell and Boykin and the African American Lower-Level
20 Manager Class as a whole. The members of the African American Lower-Level Manager Class
21 are entitled to injunctive relief to end FedEx Express' common, uniform, and unfair racially
22 discriminatory personnel policies and practices.

23 29. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
24 because common questions of fact and law predominate over any questions affecting only
25 individual members of the African American Lower-Level Manager Class, and because a class
26 action is superior to other available methods for the fair and efficient adjudication of this
27 litigation. The members of the African American Lower-Level Manager Class have been
28 damaged and are entitled to recovery as a result of FedEx Express' common, uniform, and unfair

1 racially discriminatory personnel policies and practices. FedEx Express has computerized payroll
 2 and personnel data that will make calculation of damages for specific members of the African
 3 American Lower-Level Manager Class relatively simple.

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

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

6 30. Defendant FedEx Express engages in a pattern and practice of highly
 7 subjective decision making regarding employment matters that is discriminatory to Minority
 8 Employees and African American Lower-Level Managers and is manifested in initial assignments
 9 (as to Minority Employees only), promotions, compensation, and discipline. While Defendant
 10 has policies designed to govern these matters, many of these policies involve uncontrolled
 11 subjective criteria and/or are applied by Defendant in an arbitrary and capricious manner. As a
 12 result, racial biases and stereotypes enter into Defendant's employment decisions.

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

19 32. Defendant also engages in intentional discrimination against Minority
 20 Employees and African American Lower-Level Managers with respect to (a) initial job
 21 assignment (as to Minority Employees only); (b) promotion to permanent and full-time positions
 22 and to management; (c) compensation; and (d) discipline through its system of subjective and
 23 arbitrary decision making, as demonstrated by anecdotal and statistical evidence.

24 33. Defendant has discriminated against Minority Employees by use of a dual-
 25 employment track. For example, both full-time and part-time employees fill Handler positions at
 26 a facility. The full-time positions are more lucrative and provide employees with more
 27 opportunities for advancement, greater job security, and greater pay and benefits. By contrast, the
 28 part-time positions are less desirable because they offer lower wages, lesser benefits, changing

1 and inconsistent work hours, proportionately heavier responsibilities, and more difficult work
2 conditions. Defendant has a systematic pattern and practice of relegating qualified Minority
3 Employees to part-time jobs, with lesser job security, compensation, and opportunity for
4 advancement. Defendant typically reserves the full-time, permanent, higher wage positions for
5 non-Minority employees. Consistent with Defendant's long-standing discriminatory policies and
6 practices, Defendant typically hires Minority Employees only for entry level, part-time, and
7 casual positions.

8 34. Defendant also disproportionately fails to promote qualified Minority
9 Employees from part-time, casual positions to full-time and permanent positions at the same rate
10 as their similarly situated non-Minority counterparts. Even when FedEx Express does promote
11 Minority Employees from part-time, casual positions to full-time, permanent positions, it does not
12 promote them as quickly as their similarly situated non-Minority counterparts. To be promoted
13 from Handler or other low level hourly positions into Courier, Ramp Transport Driver, or Service
14 Agent positions, a FedEx employee must pass a group of tests known as the Basic Skills Tests
15 ("BST"), which FedEx knows has statistically significant adverse impact on minorities, and
16 which has not been validated. The BST requirement applies uniformly to all Service Agent,
17 Courier, and Ramp Transport Driver candidates in the Western Region. FedEx also uses uniform
18 performance evaluations that have adverse impact and have not been validated, and that are the
19 basis for promotion and compensation decisions under FedEx policy.

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

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

1 Minority managers from “informal” email buddy lists and social gatherings that are used to
2 communicate relevant operating procedures, discuss managerial issues, and post corporate
3 advancement opportunities.

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

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

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

22 40. Defendant has also engaged in a longstanding, widespread and
23 discriminatory policy and practice of applying differential standards in determining whether to
24 subject an employee to disciplinary action. Minority Employees and African American Lower-
25 Level Managers are consistently reprimanded and disciplined for petty matters, and are
26 disciplined for infractions unsupported or contradicted by credible evidence. Non-Minority

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 Employees are not reprimanded or disciplined for similar matters, or for infractions which are not
2 supported by credible evidence.

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

16 43. This pattern of denying Minority Employees and African American Lower-
17 Level Managers equal assignments, promotions, training, and compensation and of over-
18 disciplining Minority Employees and African American Lower-Level Managers, is not the result
19 of random or non-discriminatory factors. Rather, it is the result of an ongoing and continuous
20 pattern and practice of intentional race discrimination in assignments, compensation, promotions,
21 and discipline. It is further the result of reliance on policies and practices that have an adverse
22 impact on Minority Employees which cannot be justified by business necessity, and for which
23 alternative policies and practices with less discriminatory impact could be utilized that would
24 equally serve any asserted business necessity. Plaintiffs are informed and believe that such
25 policies and practices continue 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 African American Lower-Level Managers have notice of and
2 opportunity to seek advancement, higher compensation, overtime, or more desirable assignments
3 and training;

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

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

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

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

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

18 (g) Paying Minority Employees and African American Lower-Level
19 Managers lower compensation than similarly situated non-Minorities;

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

24 (i) Providing less training and support to Minority Employees and
25 African American Lower-Level Managers than that given to non-Minority employees and
26 managers; and

27 (j) Using employment tests (such as the BST) and performance
28 evaluations that have adverse impact and have not been validated, and failing to explore

1 alternative, non-discriminatory options.

2 44. As a proximate result of the racially discriminatory employment practices
3 and other wrongful acts alleged herein, Plaintiffs and members of both classes have suffered loss
4 of income, loss of advancement and promotion, loss of career opportunity, and/or loss of
5 intangible job benefits. As a proximate result of the racially discriminatory employment policies,
6 practices and other wrongful acts alleged herein, Plaintiffs and members of both classes have
7 experienced pain, suffering, severe emotional and mental distress, shame, humiliation,
8 embarrassment, and related physical ailments.

9 45. Plaintiffs, and each of them, have experienced such racially discriminatory
10 employment practices and other racially discriminatory actions by Defendant including, without
11 limitation, the practices and actions described herein.

12 B. **FedEx Express' Operations**

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

15 47. Defendant FedEx Express' Western Region includes the following states:
16 Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon,
17 part of Texas, Utah, Washington, and Wyoming.

18 48. Defendant employs uniform employment and personnel policies
19 throughout all its districts, regions, and/or divisions in the Western Region. Regardless of facility
20 or corporate division, there are uniform policies for employees, uniform "orientation" procedures,
21 and uniform salary, assignment, pay, training, promotion, and disciplinary policies. All facilities
22 must follow these uniform, company-wide policies and procedures.

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

26 50. Defendant operates several shifts at its major distribution facilities, during
27 which packages arrive and depart the warehouse. Many thousands of packages may be handled
28 and sorted on the Line (the conveyor belt used to move packages inside a station) per hour during

1 a shift at a mid- to large-sized facility. An individual package may weigh anywhere from a few
2 ounces to 75 pounds. Crates may weigh up to 200 pounds.

3 51. Defendant employs numerous Handlers to lift, sort, scan and stack
4 packages in buckets, cans and delivery vehicles. In addition, several of the Handlers are
5 designated as “Lead” and are responsible for the coordination and efficient operation of other
6 Handlers in processing packages along a particular part of the Line.

7 52. In addition to Handlers, Defendant employs Checker/Sorters, who scan and
8 direct packages; Couriers and Swing Drivers, who operate the delivery vehicles and deliver and
9 pickup packages from customers; Shuttle Drivers, who drive shuttles or large tractor trucks to
10 pick up significant numbers of packages from institutional customers and to make trips to the
11 airport and other distribution facilities; Customer Service Agents, who interact with the public
12 and handle customer pickups and complaints; Dispatchers, who communicate with Couriers;
13 Operations Managers, who supervise the various workgroups or job classes in the Facility during
14 a shift; and Freight Handlers, Material Handlers, Ramp Agents, Ramp Area Drivers, and Ramp
15 Transport Drivers to load and unload packages and heavy freight, to transfer the cargo to and
16 from the cargo airplanes to the onsite facility for sorting or storage, and to transfer the cargo to
17 and from the large freight vehicles or smaller shuttles that transport the packages to the various
18 distribution facilities in the area, or to their ultimate destinations. FedEx also employs Dangerous
19 Goods Agents, Information Agents, Operations Agents, Service Assurance Agents, Truck Control
20 Agents, Trace Representatives, Input Auditors, and Team Leaders to assist with and coordinate
21 these operations.

22 53. The Regions for Defendant FedEx Express are headed by Vice Presidents
23 of Operations. The Districts for FedEx Express are headed by District Managers who report
24 directly to the Vice Presidents of Operations. The Districts are comprised of individual
25 distribution/service centers in the Domestic Ground Operations (“DGO”) division, and of
26 “organizations” in Air Ground Freight Services (“AGFS”) division, which may correspond to a
27 single facility or to set of operations within a larger airport based facility. Both service centers
28 and organizations are run by Senior Managers, who report directly to the Managing Directors.

1 Senior Managers supervise Operations Managers, the lowest management positions.

2 54. The Vice President of Operations, the District Managers and Senior
3 Managers form the senior management ranks in a region. The various operations managers at
4 each facility form the lower management ranks.

5 55. Defendant has limited the senior and lower management ranks primarily to
6 non-Minorities in the Western Region. Defendant principally promotes from within and
7 maintains a work force with significant numbers of Minority Employees in lower level jobs.
8 Defendant, however, employs only a sparse number of Minorities in its management ranks.
9 Plaintiffs are informed and believe, and based thereon allege, that Defendant has never employed
10 a Minority as a Vice President of Operations in the Western Region. Plaintiffs are informed and
11 believe that even when Minority Employees are promoted, on average they are advanced later,
12 and then more slowly, than similarly situated non-Minority employees.

13 56. As a result of the scarcity of Minority managers in management positions
14 in the Western Region, the managerial ranks within the District are commonly known as the "Ole
15 Boys Network" or the "Country Club." Racial epithets have often been used by Defendant's
16 Senior Managers.

17 57. The racial composition of Defendant's workforce with respect to its senior
18 and lower management ranks is grossly disproportionate to the available pool of Minority
19 workers who are qualified for positions in the senior and lower management ranks of Defendant's
20 business.

21 **ALLEGATIONS OF NAMED PLAINTIFFS**

22 **I. MINORITY EMPLOYEE CLASS**

23 **Valerie Brown**

24 **A. Class Claims**

25 58. Plaintiff Brown was hired by Defendant in approximately 1982 as a
26 Customer Service Agent at the distribution facility in Sunnyvale Facility and transferred to the
27 Milpitas Facility in approximately 1987 upon closure of the former facility. In approximately
28 1989, Defendant employed Plaintiff Brown as the sole African American Courier at the Milpitas

1 Facility.

2 59. In 2003, Defendant gave Plaintiff Brown written, disciplinary notations
3 regarding issues for which non-Minority Couriers were not criticized, negatively affecting her
4 performance reviews and promotability. For example, Plaintiff Brown was reprimanded for
5 calling in sick and not speaking directly with a manager, whereas non-Minority employees were
6 not disciplined when they called in sick and left messages for their managers with hourly
7 employees. Plaintiff Brown was disciplined despite the objection of her direct supervisor.

8 60. Similarly, in July 2003, Plaintiff Brown was disciplined for a customer
9 complaint without having had an opportunity to give her account of the incident. By contrast,
10 Defendant has not disciplined numerous non-Minority employees who have had customer
11 complaints made against them.

12 61. Plaintiff Brown made numerous complaints to the Station Manager and to
13 human resources regarding this racially discriminatory treatment. However, Defendant did not
14 take any action regarding the complaints, apart from questioning Plaintiff Brown.

15 62. In 1995, Defendant opened the current Santa Clara Facility and transferred
16 many of the service routes that had formerly been operated from the Milpitas Facility to the new
17 facility. In allocating the Courier routes between the two facilities, Defendant divided Plaintiff
18 Brown's route equally between the two centers. Plaintiff Brown's route was the only service route
19 that was split. All the routes for non-Minority Couriers were kept intact. In order to keep her
20 service area, Plaintiff Brown was required to transfer to the Santa Clara Facility as a part-time
21 courier, thus losing the higher full-time pay. No non-Minority employee courier was required to
22 convert to part-time status or to give up his or her route.

23 63. Defendant engaged in race-based discrimination by passing over Plaintiff
24 Brown in favor of more junior, less qualified non-Minority employees for various promotions and
25 higher paying positions. In the early 1990s, Plaintiff Brown applied for several sales
26 representative positions that defendant had posted to employees. Plaintiff Brown was not hired
27 for any of the sales representative positions despite her long service with Defendant. Instead,
28 Defendant hired numerous non-Minority recent graduates, with little or no experience, and other

1 non-Minority employees from within the company. With her seniority, Plaintiff Brown should
2 have been hired; the advertisements for the positions indicated that prior sales experience was not
3 a requirement since the Company would provide necessary training.

4 64. Similarly, in 2000, Plaintiff Brown applied for two higher paying Dispatch
5 positions at the Oakland Station and the Oakland Hub. However, Plaintiff Brown did not get
6 either position. Once again, Defendant passed over her in favor of more junior, less qualified non-
7 Minority employees.

8 65. In January 2001 and February 2002, Plaintiff Brown applied for Operations
9 Manager positions at the Santa Clara Facility and the Milpitas Facility, respectively. In each case,
10 Defendant promoted a non-African American to the position despite the fact that the non-African
11 American had significantly less seniority than Plaintiff Brown and only Courier experience.
12 Plaintiff Brown had Courier, acting Dispatcher, and Customer Service Agent experience and had
13 been with the Company since 1982.

14 66. Plaintiff Brown is also informed and believes, and thereupon alleges, that
15 she has been compensated less than similarly situated non-Minorities.

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

17 67. While Plaintiff Brown was a Courier at the Milpitas Facility, Defendant
18 discriminated against her on the basis of race, saddling her with greater responsibilities than her
19 non-Minority colleagues and thus making it more difficult for her to perform as well as them.
20 Defendant required Plaintiff Brown to deliver packages on her route, as well as perform overflow
21 responsibilities and make additional trips to pick up freight left by other Couriers. Defendant did
22 not require Plaintiff Brown's non-Minority colleagues to perform these additional duties.

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

27 69. In July 2002, Defendant retaliated against Plaintiff Brown for filing a racial
28 discrimination complaint with the Department of Fair Employment and Housing. In response to

1 Plaintiff Brown's complaint, Defendant disciplined Plaintiff Brown more harshly than her non-
2 Minority colleagues. Defendant disciplined Plaintiff Brown in response to a customer complaint
3 but did not discipline the non-Minority employees also mentioned in the complaint.

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

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

10 **Rick Gonzales**

11 **A. Class Claims**

12 72. Plaintiff Rick Gonzales is a Latino male who was employed by Defendant
13 FedEx Express as a Courier from May 1998 until September 2002.

14 73. Defendant has undermined Plaintiff Gonzales' attempts to attain
15 management positions, while actively supporting non-Minority candidates in their efforts to
16 secure management positions. Defendant never discussed or provided guidance to Plaintiff
17 Gonzales about the possibility or process of entering management, although he had expressed his
18 desire to advance to management several times. Further, Defendant did not offer him the support
19 provided non-Minority employees in preparing for management, such as training him on
20 computer systems or discussing a manager's operational responsibilities. Defendant's
21 discriminatory management selection practices discouraged Plaintiff Gonzales from applying for
22 management positions.

23 74. Plaintiff Gonzales observed that non-Minority employees were promoted
24 to management faster than Minority Employees, and that management steered non-Minority
25 employees into management positions. For example, during Plaintiff Gonzales' 5-year tenure at
26 Defendant's Santa Fe Springs location, several non-Minority employees became managers, while
27 only one Minority entered management. The Minority Employees were consistently given the
28 worst shifts, working at night with the newest employees. Plaintiff Gonzales observed less senior

1 non-Minority employees being promoted to management before him even though he was equally
2 if not more qualified for the positions that were open, but he did not observe his Minority peers
3 attain management positions.

4 75. Defendant has further discriminated against Plaintiff Gonzales by engaging
5 in discriminatory employment practices intended to and/or having the effect of undermining
6 Plaintiff Gonzales' efforts to advance into Defendant's management ranks. In August 2002,
7 Defendant refused to allow Plaintiff Gonzales to apply for management positions because his
8 performance review rating was 3/10 of a point below the alleged cutoff. Plaintiff Gonzales
9 believes that Defendant manipulates such subjective criteria in order to control who may become
10 eligible for management. However, Plaintiff Gonzales is informed and believes that Defendant
11 has permitted non-Minority employees to apply for management positions with performance
12 review scores lower than that of Plaintiff Gonzales.

13 76. Defendant has discriminated against Plaintiff Gonzales by disciplining him
14 for infractions for which non-Minority employees were not similarly disciplined. For example,
15 Plaintiff Gonzales has received multiple OLCC's and warning letters for infractions such as
16 incorrect calculations, packages not returned, and timecard errors. In contrast, his non-Minority
17 peers were rarely disciplined for such conduct.

18 77. Plaintiff Gonzales is also informed and believes, and thereupon alleges,
19 that he has been compensated less than similarly situated non-Minorities.

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

21 78. Defendant discriminated against Plaintiff Gonzales by failing to assisting
22 him in securing a suitable position upon return from workers compensation leave. After Plaintiff
23 Gonzales was injured on the job for the second time with a severe lower back injury, he required
24 an extended leave. When he prepared to return to work, Defendant displaced him from his prior
25 position and refused to identify a suitable position for him anywhere in Southern California,
26 despite Plaintiff Gonzales' 12-year tenure and his offer to accept any position available, including
27 those requiring relocation to Los Angeles or Las Vegas. Instead, Defendant sent Plaintiff
28 Gonzales a termination letter on approximately September 13, 2002. Defendant has routinely

1 assisted non-Minority employees who have suffered permanent and temporary disabilities to find
2 suitable job opportunities with FedEx.

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

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

9 **Cynthia Guerrero**

10 **A. Class Claims**

11 81. Defendant hired Plaintiff Guerrero in approximately 1995. Plaintiff
12 Guerrero worked for Defendant in Commerce City and Santa Fe Springs, California as a
13 Customer Service Agent and as a Courier.

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

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

1 84. Defendant also discriminated against Plaintiff Guerrero by reducing her
2 work hours, thus negatively affecting her compensation, while increasing the work hours given to
3 non-Minority employees with less seniority.

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

11 86. Defendant has systematically discriminated against the employees in
12 Plaintiff Guerrero's workgroup, called Loop 9, all of whom are Minority Employees.

13 87. Plaintiff Guerrero is also informed and believes, and thereupon alleges, that
14 she has been compensated less than similarly situated non-Minorities.

15 B. **Individual Claim for Retaliation**

16 88. Defendant has also retaliated against Plaintiff Guerrero for complaining
17 about race-based discrimination. Most recently, in July 2004, Defendant effectively terminated
18 Plaintiff Guerrero. When Plaintiff Guerrero sought to clarify her employment status, which she
19 had previously been informed was "inactive" due to long-term disability leave, Plaintiff Guerrero
20 was informed that her employment was instead terminated due to her failure to find an alternative
21 position with Defendant after she had been displaced.

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

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

Rachel Hutchins

A. Class Claims

91. Plaintiff Rachel Hutchins is an African American woman formerly employed by Defendant as a Handler in Bakersfield, California. Plaintiff worked for Defendant from December 1995 through April 1996, and again from March 2001 through January 2004.

92. Defendant hired and/or promoted less senior, less experienced non-Minority individuals to permanent or full-time positions, whereas Plaintiff Hutchins remained a casual Handler during her more than two and a half years with Defendant.

93. Defendant passed over Plaintiff in favor of less or equally qualified non-Minority individuals in filling positions for which Plaintiff applied. Starting in approximately October 2002, Plaintiff Hutchins sought a position as a Customer Service Agent (CSA). From approximately May or June 2002 to April 2003, Plaintiff Hutchins performed the duties of a Customer Service Agent, without a commensurate change in title or salary. Although Customer Service Agent positions became available, Defendant did not place Plaintiff Hutchins in these positions.

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

95. In April 2003, Defendant informed Plaintiff Hutchins that she would receive the next Customer Service Agent position that opened, without being required to apply. From approximately May 2003, a Customer Service Agent position was available. Although Plaintiff was qualified, Defendant still did not place Plaintiff Hutchins in a Customer Service

1 Agent position.

2 96. Defendant has discriminated against Plaintiff Hutchins with respect to
3 compensation by paying her as a Handler, while requiring her to perform the duties of a Customer
4 Service Agent. Defendant refused to offer Plaintiff Hutchins a Customer Service Agent position,
5 or to change her title or compensation to reflect her additional duties.

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

15 98. Plaintiff Hutchins is also informed and believes, and thereupon alleges, that
16 she has been compensated less than similarly situated non-Minorities.

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

18 99. Defendant retaliated against Plaintiff Hutchins for filing a charge of
19 discrimination with the EEOC and for participating in this lawsuit by wrongfully terminating
20 Plaintiff Hutchins on January 20, 2004.

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

23 101. Plaintiff Hutchins filed a timely charge of discrimination with the EEOC
24 on May 27, 2003, attached hereto as Exhibit "D," which was automatically cross-filed with the
25 DFEH. Plaintiff Hutchins has received Notices of Right to Sue from the EEOC and from the
26 DFEH. Plaintiff Hutchins supplemented this charge with a retaliation claim on August 16, 2004
27 and has requested a Notice of Right to Sue.
28

Tyrone Merritt

A. Class Claims

102. Plaintiff Tyrone Merritt is an African American male employed by FedEx Express since September 1998. Plaintiff Merritt worked in FedEx Express's Phoenix, Arizona facility from the fall of 2001 through the summer of 2005. During that time, Plaintiff Merritt worked as a permanent part-time Handler.

103. During his tenure as a Handler in Phoenix, Plaintiff Merritt was passed over for numerous promotions, including promotions to the position of Courier. Plaintiff Merritt was not able to apply for a Courier promotion because he failed the Basic Skills Test ("BST") in February 2003 and again in May 2005. The BST is a requirement for promotion to Courier positions even though it has tremendous adverse impact and has not been validated.

104. Plaintiff Merritt has also been passed over for promotions to other positions, including positions as a Dispatcher, Material Handler, Ramp Agent, and Team Leader, all of which were given to similarly situated white employees. Plaintiff Merritt was also passed over for two Dangerous Goods Specialist positions, which were both filled by white applicants with less seniority than Plaintiff Merritt.

105. Plaintiff Merritt has also been subjected to harsher discipline than similarly situated white employees. For example, in approximately February 2004, Plaintiff Merritt was reprimanded by his manager for a "drop can" violation because a can containing packages fell from his dolly. Plaintiff Merritt is aware of two white employees who dropped cans from their dollies, but received no reprimands.

106. Plaintiff Merritt has also been denied fair compensation because of FedEx Express' racially biased policies and practices.

B. Individual Claim for Denial of Leave Without Pay

107. Plaintiff Merritt was denied leave without pay ("LWOP") in mid-2004, while similarly situated white employees were permitted to take LWOP.

108. In addition to the foregoing, Plaintiff Merritt has experienced disparate treatment on the basis of race with respect to many employment practices by Defendant.

1 109. Plaintiff Merritt filed a timely charge of discrimination with the EEOC on
2 December 2, 2004, and a supplemental charge on July 1, 2005, both attached hereto as
3 Exhibit "E." Plaintiff Merritt has requested a Notice of Right to Sue from the EEOC.

4 **Kelvin Smith, Sr.**

5 A. **Class Claims**

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

8 111. From April 2002 through July 2002, Plaintiff Smith acted as Operations
9 Manager for PM Sort Operations at his Facility. His duties included closing down the facility,
10 covering sick calls, enlisting Couriers to help loading, assuring that freight got on shuttles in time,
11 guiding the movement of trucks within the Facility, and coordinating the activities of Handlers,
12 Loaders and Dispatchers. The only management function that Plaintiff Smith did not perform
13 was providing performance reviews. Repeatedly, Plaintiff Smith requested that Defendant permit
14 him to complete the management training program and enable him to promote to open Operations
15 Manager positions. Defendant failed to assist Plaintiff Smith.

16 112. Defendant undermined Plaintiff Smith's efforts to obtain management
17 training while actively supporting non-Minority candidates in their efforts to secure management
18 training. Plaintiff Smith participated in the ASPIRE management training program, successfully
19 completed the program's required tests and assessments, and not only met but exceeded the
20 performance review requirements. However, Defendant failed to allow Plaintiff Smith to
21 complete the final part of the program, a peer assessment that had to be scheduled by
22 management. From April 2002 through July 2002, Plaintiff Smith's managers ignored his
23 repeated requests to complete the peer review section. By contrast, Defendant consistently
24 assisted less senior and less experienced non-Minority ASPIRE participants in completing the
25 program, thereby permitting them to apply for management positions for which Plaintiff Smith
26 remained ineligible because of Defendant's failures.

27 113. Defendant discriminated against Plaintiff Smith by paying him less than
28 less senior and/or similarly situated non-Minority employees. Defendant paid Plaintiff Smith less

1 than less experienced non-Minority Lead Handlers, even when Plaintiff Smith was required to
2 perform management duties for the PM operations.

3 114. Defendant provided inferior training to Plaintiff Smith compared with
4 similarly situated non-Minority employees. While Plaintiff Smith was acting as an Operations
5 Manager from April 2002 to July 2002, Defendant failed to provide Plaintiff Smith with the level
6 of training provided to Plaintiff Smith's non-Minority peers with respect to particular operational
7 indices in Plaintiff Smith's facility.

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

18 116. In May 2002, Plaintiff Smith was again unfairly disciplined when a delay
19 caused freight to arrive late at the ramp. The non-Minority manager responsible for the delay was
20 not disciplined.

21 117. Plaintiff Smith is also informed and believes, and thereupon alleges, that he
22 has been compensated less than similarly situated non-Minorities.

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

24 118. In July 2002, in retaliation for Plaintiff Smith's filing of a complaint with
25 the Department of Fair Employment and Housing for racial discrimination and harassment,
26 Defendant wrongfully terminated Plaintiff Smith for a trivial time card oversight that had no
27 practical impact on Plaintiff Smith's wages and that was identified on the same day before any
28 processing. Defendant routinely allows non-Minority employees or managers to correct

1 identified mistakes on timecards.

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

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

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

25 122. Plaintiff Smith filed a timely charge of discrimination with the EEOC on
26 June 24, 2003, which was automatically cross-filed with the DFEH, and filed a separate timely
27 charge with the DFEH on July 22, 2002. These charges are attached hereto as Exhibit "F."

28 Plaintiff Smith has received Notices of Right to Sue from the EEOC and from the DFEH.

Ken Stevenson

A. Class Claims

123. Plaintiff Stevenson is an African American male currently employed by Defendant as an Operations Manager in Compton, California. Plaintiff Stevenson began working for Defendant in approximately May 1997 as a casual, part-time Courier.

124. Defendant consistently undermined Plaintiff Stevenson's efforts to attain management positions, while actively supporting non-Minority employees in their attempts to enter management. Prior to his promotion to Operations Manager in 2005, Plaintiff Stevenson had sought to apply for promotion more than ten times, without success. Rather than respond to Plaintiff Stevenson's multiple efforts to secure a management position, Defendant offered baseless excuses for its failure to promote him. For example, Senior Manager Mike Smith told Plaintiff Stevenson that he must complete management classes, but when Plaintiff indicated his willingness to begin management classes, Smith postponed the classes, and then only held them intermittently. On other occasions, Defendant told Plaintiff Stevenson there was a "hiring freeze." Meanwhile, Defendant promoted other less senior non-Minority employees over Plaintiff Stevenson, such as Tim Becker and Mike Aroz, notwithstanding the fact that Plaintiff Stevenson received a higher management assessment.

125. Defendant also required Plaintiff Stevenson to attend management classes on his own time, while non-Minority employees, such as Becker and Aroz, were allowed to attend them during work time.

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

127. Defendant has discriminated against Plaintiff Stevenson by disciplining him for infractions for which non-Minority employees were not similarly disciplined. For example, Defendant has disciplined Plaintiff Stevenson for failing to tuck in his shirt, but Defendant refuses to purchase shirts big enough for Plaintiff Stevenson. Defendant has further used such petty infractions as barriers to Plaintiff Stevenson's promotion into management. For

1 example, on May 8, 2003, Defendant informed Plaintiff Stevenson that he could not apply for a
 2 vacant manager position because his socks were too short. When Plaintiff Stevenson pointed out
 3 that Mike Aroz, a non-Minority employee, wore his socks in an identical fashion, Defendant
 4 simply instructed Aroz to change his socks, but did not prevent him from applying for the
 5 manager position. Aroz became a manager approximately two weeks later.

6 128. Plaintiff Stevenson is also informed and believes, and thereupon alleges,
 7 that he has been compensated less than similarly situated non-Minorities.

8 **B. Individual Claim for Harassment**

9 129. 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.

16 130. 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.

18 131. 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. AFRICAN AMERICAN LOWER-LEVEL MANAGER CLASS**

23 **Derrick Satchell**

24 **A. Class Claims**

25 132. 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 Satchell for full-time employment, Defendant hired and/or
 28 promoted less senior, less experienced non-Minority individuals to Courier and other full-time

1 positions before Defendant gave Plaintiff Satchell a full-time position.

2 133. Once Plaintiff Satchell finally obtained a position as an Operations
3 Manager, Defendant also consistently issued formal disciplinary actions against Plaintiff Satchell
4 for petty or trivial matters for which non-Minority employees were not disciplined, thus lowering
5 Plaintiff Satchell's performance reviews and rendering him ineligible for promotion.

6 134. Defendant discriminated against Plaintiff Satchell by paying him less than
7 less senior and/or similarly situated non-Minority employees. Throughout Plaintiff Satchell's
8 employment with FedEx, Defendant paid Plaintiff Satchell less than non-Minority managers even
9 though Plaintiff Satchell had comparable responsibilities and more seniority and management
10 experience.

11 135. In approximately December 1999, when Plaintiff Satchell was a Courier
12 Operations Manager, Plaintiff Satchell received his first warning letter for excessive late
13 deliveries by Couriers on Mondays. Defendant disciplined Plaintiff Satchell despite the fact that
14 the problem dated back to a prior Operations Manager's tenure and that the late deliveries were
15 occurring only on Plaintiff Satchell's scheduled day off. Defendant has not reprimanded non-
16 Minority managers, much less given warning letters, where the non-Minorities were not directly
17 responsible for the infraction. In addition, Defendant had not disciplined the non-Minority
18 manager who supervised the workgroup prior to Plaintiff Satchell.

19 136. In approximately August 2001, Defendant disciplined Plaintiff Satchell for
20 insubordination for failure to submit, in a timely manner, an action plan for correcting a
21 deficiency in his operations. Plaintiff Satchell failed to submit the action plan on time because
22 Defendant had not properly notified Plaintiff Satchell of his need to submit the Plan. Plaintiff
23 Satchell was required to work through the night to prepare the plan and submitted it a day late.
24 Defendant disciplined Plaintiff Satchell even though he had proof that other non-Minority
25 managers were also failing in the cited area, but were not required to submit similar Action Plans
26 and were not otherwise disciplined.

27 137. Defendant disciplined Plaintiff Satchell again in November 2001 in
28 connection with his performance review. Defendant gave Plaintiff Satchell a warning letter after

1 rating his performance as 1.0 in one area of the review due to Plaintiff Satchell's group's failure
2 to improve in that area. Plaintiff Satchell's Senior Manager, Christopher Matthews, refused to
3 alter the low rating when Plaintiff Satchell produced emails from Matthews commending Plaintiff
4 Satchell's group for improvement in the area in question, and stating "excellent job; now you
5 only need to maintain it." Defendant's personnel policy states that disciplinary letters should not
6 be issued where only one or two areas of a review are deficient; a warning letter is warranted only
7 if an entire performance review is 1.0 or below. Defendant does not issue warning letters to non-
8 Minority managers regarding performance reviews unless the entire review is unsatisfactory.
9 Further, Defendant does not issue warning letters to non-Minorities who provide evidence
10 contradicting an allegation of unsatisfactory performance.

11 138. On December 1, 2001, Plaintiff Satchell met with District Director Steven
12 Seymour regarding the warning letter. Seymour assured Plaintiff Satchell that the letter would
13 not be entered in the system. Based on Seymour's assurance, Plaintiff Satchell did not pursue the
14 Guaranteed Fair Treatment ("GFT") process further. When Defendant terminated Plaintiff
15 Satchell's employment in April 2002 for three active, documented disciplinary actions, the
16 warning letter in question was counted toward the three.

17 139. In November 2001, Defendant gave Plaintiff Satchell an OLCC because he
18 had failed to cancel excess minimum hour pay for Couriers in his group who had not actually
19 worked the minimum number of hours. At the time, Plaintiff Satchell informed Defendant that
20 canceling the minimum without a waiver would violate policy. In December 2001, Seymour and
21 Matthews informed managers at the Santa Clara Facility that they wanted excess minimum hours
22 cancelled regardless of waivers. Again, Plaintiff Satchell objected, citing policy, but cancelled
23 the hours anyway. Plaintiff Satchell was issued a warning letter, however, because he
24 inadvertently failed to cancel the excess minimum hours of a few couriers. Whereas Defendant
25 issued Plaintiff Satchell a warning letter for his inadvertent failure to cancel payment for excess
26 minimum hours, Defendant refused to issue warning letters to non-Minority managers, such as
27 Paul Birkenbach, who also failed a second time to cancel excess minimum hours.

28 140. Plaintiff Satchell is also informed and believes, and thereupon alleges, that

1 he has been compensated less than similarly situated non-Minorities.

2 B. **Individual Claims for Failure to Promote, Termination, and**
3 **Retaliation**

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

13 142. Defendant excluded Plaintiff Satchell from "informal" email buddy lists
14 used by Regional, District and Station Managers to communicate relevant operating procedures
15 and corporate advancement opportunities and to informally discuss managerial issues.

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

24 144. Defendant discriminated against Plaintiff Satchell by terminating Plaintiff
25 for conduct for which non-Minority employees were not similarly terminated. In March 2002,
26 Defendant had an interim manager issue Plaintiff Satchell a third documented disciplinary action
27 within a 12-month period, and immediately terminated his employment. Defendant disciplined
28 and terminated Plaintiff Satchell for time card falsification. The time card "falsification" forming

1 the basis for the termination was Plaintiff Satchell's cancellation of employee minimum hours in
2 December 2001 that Plaintiff Satchell performed upon directives from Matthews and Seymour.
3 Plaintiff Satchell had objected to canceling the minimum hours without an employee waiver.

4 145. On August 28, 2002, Defendant refused to rehire Plaintiff Satchell as an
5 Operations Manager after an Appeals Board in Memphis, Tennessee refused to overturn its
6 discriminatory discipline and wrongful termination actions. In April 2002, Plaintiff Satchell had
7 filed an internal discrimination complaint, as well as a GFT request in connection with his
8 discriminatory discipline, promotion, compensation, and wrongful termination claims dating from
9 August 2001 through Plaintiff Satchell's termination. As part of his appeal, Plaintiff Satchell
10 submitted facts supporting his claims of differential treatment and discrimination by Defendant.
11 Defendant has rehired and overturned unfair actions against non-Minority employees upon the
12 basis of much less credible information than that provided by Plaintiff Satchell.

13 146. Defendant retaliated against Plaintiff Satchell for complaining of
14 discrimination. After Defendant terminated Plaintiff Satchell's employment in April 2002,
15 Plaintiff filed a race discrimination and wrongful termination complaint against Defendant with
16 the California Department of Fair Employment and Housing. In December 2002, Plaintiff
17 Satchell filed a civil complaint for race discrimination in Superior Court. In response to Plaintiff
18 Satchell's complaints, Defendant has engaged in a pattern of making defamatory statements
19 against Plaintiff Satchell to employers seeking to hire Plaintiff Satchell. As a result of
20 Defendant's defamatory statements, Plaintiff Satchell had great difficulty in securing employment
21 after his termination by Defendant. On numerous occasions, prospective employers successfully
22 completed several rounds of interviews with Plaintiff Satchell, commended Plaintiff Satchell on
23 his presentation and employment record, indicated satisfaction with his references, and provided
24 Plaintiff Satchell with strong indication of their interest in employing him. However, upon
25 speaking with or receiving letters from Defendant regarding Plaintiff Satchell, the employers
26 declined to hire Plaintiff Satchell. In June 2002, Airborne Express declined to hire Plaintiff
27 Satchell after Defendant defamed Plaintiff Satchell in retaliation for filing a complaint. Yellow
28 Transportation similarly declined to hire Plaintiff Satchell after Defendant's retaliatory actions.

1 Further, after speaking with Defendant in December 2002, Coca-Cola Company refused to hire
2 Plaintiff Satchell after 6 successful interviews from August 2002 to December 2002.

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

5 148. Plaintiff Satchell filed a timely charge of discrimination with the EEOC on
6 May 6, 2003, attached hereto as Exhibit "H," which was automatically cross-filed with the
7 DFEH. Plaintiff Satchell has received Notices of Right to Sue from the EEOC and the DFEH.

8 **Kalini Boykin**

9 A. **Class Claims**

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

17 150. Plaintiff Boykin also interviewed for numerous other full-time positions
18 before she was finally promoted to a full-time Truck Control Agent position in January 1998.
19 Other non-Minority employees with similar qualifications and experience were promoted to this
20 position sooner than Plaintiff Boykin.

21 151. Plaintiff Boykin also was rarely permitted to earn overtime hours, while
22 non-Minority employees were permitted to work overtime when necessary, earning wages at the
23 higher overtime rate.

24 152. In 1999, Plaintiff Boykin was promoted to an RTD Driver position after
25 several unsuccessful attempts to obtain the promotion despite being qualified. As in her previous
26 positions, Plaintiff Boykin excelled as an RTD Driver. She received a consistent 7.0 out of 7.0 on
27 her performance reviews. Plaintiff Boykin also excelled in Defendant's ASPIRE management
28 training program. On each of the three program assessments, (i) the Quantitative Assessment, (ii)

1 the Psychological Assessment, and the (iii) Peer Assessment, Plaintiff Boykin scored the highest
2 possible grade, 5 on a scale of 5.

3 153. In May 2000, Plaintiff Boykin applied for one of two Operations Manager
4 positions at the San Leandro Facility. Despite Plaintiff Boykin's superior qualifications and the
5 strong recommendation of her manager, Defendant, including specifically Senior Manager Robert
6 Montez and Regional Vice President Michael Pigors, passed over Plaintiff Boykin in favor of two
7 less experienced and less qualified non-Minority applicants, Carl Bowersmith and Mark Azevedo.

8 154. Because of Plaintiff Boykin's superior qualifications, Defendant
9 improperly conducted the interviews so as to minimize the advantages that Plaintiff Boykin
10 possessed over the two non-Minority applicants. Contrary to Defendant's policy, Defendant
11 conducted the interviews at separate locations and with separate panels.

12 155. In response to the discriminatory hiring procedures, Plaintiff Boykin filed a
13 GFT. After an investigation, Defendant was directed to conduct the interviews again, and
14 interviews were scheduled for the following week at another facility before the same panel.

15 156. At the second interview, Defendant once again selected Bowersmith and
16 Azevedo for the two Operations Manager positions. Defendant was unable to explain why
17 Bowersmith and Azevedo were more qualified than Plaintiff Boykin when she raised the issue
18 with manager Montez.

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

27 158. Plaintiff Boykin is informed and believes, and thereupon alleges, that she
28 has been compensated less than similarly situated non-Minorities. Even after Plaintiff Boykin

1 ultimately was made a manager after several attempts, Defendant continued to discriminate
2 against her on the basis of race. While Defendant paid Carl Bowersmith a salary in the first
3 quartile for managers in their grade (Level 25), Plaintiff Boykin was paid at the lowest rate in
4 Level 25. Plaintiff was paid at a lower rate despite being assigned greater management
5 responsibilities than the two non-Minority managers. Upon becoming a manager, Plaintiff Boykin
6 assumed all the responsibilities of the manager who had stepped down and more. She was
7 responsible for the PM operations for RTD drivers in the entire South Bay and mid-Peninsula
8 service area, which includes both San Francisco stations, the South San Francisco Facility, Palo
9 Alto, the San Jose Facility, the Santa Clara Facility, the Sunnyvale Facility, the Oakland Hub, and
10 the San Jose and San Francisco Ramps. The operations for which she was responsible lasted from
11 3:00 PM to midnight. Plaintiff Boykin was responsible for over 100 routes daily and 24
12 employees.

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

17 160. Defendant also discriminated against Plaintiff Boykin by failing to provide
18 management support to Plaintiff Boykin, making it more difficult for her to perform her job
19 duties. Montez spent little time with Plaintiff Boykin, instead focusing his attention on assisting
20 Bowersmith to develop as a manager.

21 161. Despite her lack of support from Defendant, Plaintiff Boykin excelled in
22 her management responsibilities. In her first year as a manager, Plaintiff Boykin turned the
23 extremely uncooperative workgroup that she inherited from Mike Kelly, the previous non-
24 Minority manager, into a highly productive group. In that first year, Plaintiff Boykin received a
25 Survey Feedback Score (“SFA”) of 97 from her group, and a SFA score of 94 in the second year.³
26 Moreover, Plaintiff Boykin received a leadership average of 4.9 in her first year and one of 4.7 in
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 her second year. Plaintiff Boykin also received a commendation from the Senior Vice President
2 for her management abilities.

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

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

18 164. In March 2001, Defendant continued its discrimination against Plaintiff
19 Boykin by disciplining her for a trivial matter for which it has routinely refused to discipline non-
20 Minority employees. Montez informed Plaintiff Boykin that she had failed to provide for an ad
21 hoc, unscheduled pick-up for an institutional customer. As a result of attempting to assure that the
22 Sacramento route was covered in light of Defendant's failure to provide her with sufficient RTD
23 Drivers, Plaintiff Boykin had inadvertently missed the order. However, the AM Operations
24 Manager with Plaintiff Boykin's responsibilities, had the order picked up the next morning. Since
25 the package was an economy order, there was no failure by Defendant to meet its delivery
26 deadlines.

27 165. As a result of the missed pick up, Montez threatened to give Plaintiff
28 Boykin a written warning letter. Defendant's standard disciplinary practice is to provide written

1 warning letters only after an employee has committed previous acts deserving discipline.
2 Defendant has not provided documented counseling to non-Minority managers or employees
3 upon their first offense. In response to Plaintiff Boykin's pleas for fairness, Montez indicated that
4 he would give Plaintiff Boykin only a verbal warning if she would prepare a corrective action
5 plan to address the oversight.

6 166. Plaintiff Boykin submitted the action plans as requested and was informed
7 by District Manager Robin VanGalder and Montez that it was insufficient. Defendant insisted on
8 giving Plaintiff Boykin a documented counseling despite earlier assurances that she would only
9 get a verbal warning. Furthermore, VanGalder and Montez informed Plaintiff Boykin that she had
10 been guilty of "gross leadership failure" and that she was a bad manager. Non-Minority managers
11 have frequently failed to have packages picked up on time yet have not been disciplined, much
12 less given OLCCs or written warnings or accused of "gross leadership failure."

13 B. **Individual Claims for Working Conditions and Retaliation**

14 167. Defendant assigned more burdensome job duties and shifts to Plaintiff
15 Boykin than to non-Minority employees, thus making it more difficult for her to perform as well
16 as her non-Minority peers. While a part-time Handler, Defendant discriminated against Plaintiff
17 Boykin on the basis of race by routinely assigning her to work on the busiest conveyor belts, or
18 "slides" as they are called at the Oakland Hub, where thousands of packages are processed. By
19 contrast, many stronger non-Minority employees were permitted to work on less taxing slides
20 where packages numbered in the hundreds, not thousands.

21 168. In November 2003, after Plaintiff Boykin had filed her charge with the
22 EEOC, Defendant retaliated against Plaintiff Boykin by changing her schedule from her regular
23 time of 1:30 PM to 10:30 PM to a more undesirable shift, 1:00 AM to 10:00 AM. Defendant did
24 not adversely change the hours of the non-Minority Operations Managers with the same seniority
25 as Plaintiff Boykin.

26 169. Defendant has further retaliated against Plaintiff Boykin for complaining
27 about race-based discrimination, for filing a charge with the EEOC, and for participating in this
28 lawsuit, by suspending her without cause and failing to offer her a suitable position after a

1 medical leave of absence.

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

4 171. Plaintiff Boykin filed a timely charge of discrimination with the EEOC on
5 May 6, 2003, and filed a timely charge with the DFEH in July 31, 2002, attached hereto as
6 Exhibit "I." Plaintiff Boykin has received Notices of Right to Sue from the EEOC and from the
7 DFEH. Plaintiff Boykin supplemented this charge with a retaliation claim dated October 10,
8 2005 and has requested a Notice of Right to Sue.

9
10 **FIRST CLAIM FOR RELIEF**
VIOLATION OF TITLE VII—CLASS CLAIMS

11 172. This claim is brought on behalf of all Plaintiffs and the class of Minority
12 Employees and the class of African American Lower-Level Managers.

13 173. The class period for the Minority Employee Class for this Claim for Relief
14 is from June 20, 2002 through the date of judgment. The class period for the African American
15 Lower-Level Manager Class for this Claim for Relief is from July 10, 2002 through the date of
16 judgment.

17 174. Plaintiffs Satchell, Boykin, Brown, Gonzales, Guerrero, Hutchins, Merritt,
18 Smith and Stevenson filed timely charges of discrimination with the Equal Employment
19 Opportunity Commission, received right to sue letters⁴, and timely filed the instant claim.

20 175. The foregoing conduct violates Title VII of the Civil Rights Act of 1964,
21 42 U.S.C. §§ 2000(e), *et seq.*

22 **A. Disparate Impact**

23 176. As to disparate impact, Plaintiffs incorporate by reference the allegations of
24 paragraphs 1 through 31, 33 through 66, 72 through 77, 81 through 87, 91 through 98, 102
25 through 106, 110 through 117, 123 through 128, 132 through 140, and 149 through 166, above, as
26 though fully set forth herein.

27 177. Defendant has maintained a system for making decisions about

28 ⁴ Plaintiff Merritt has requested a right to sue letter.

1 promotions, assignments (as to the Minority Employee Class), compensation, and discipline
 2 which is excessively subjective and which has had a disparate impact on Plaintiffs, the Minority
 3 Employee Class, and the African American Lower-Level Manager Class. This system cannot be
 4 justified by business necessity, but even if it could be so justified, less discriminatory alternatives
 5 exist that could equally serve any alleged necessity. Defendant's policies and practices that have
 6 a disparate impact on Plaintiffs and the classes they represent are alleged in paragraph 43 above.

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

13 **B. Disparate Treatment**

14 179. As to disparate treatment, Plaintiffs incorporate by reference the allegations
 15 of paragraphs 1 through 178, above, as though fully set forth herein.

16 180. Defendant has engaged in a pattern and practice of intentional
 17 discrimination against Plaintiffs and the classes in promotions, assignments (as to the Minority
 18 Employee Class), compensation, and discipline.

19 181. Plaintiffs request relief as to both their disparate impact and disparate
 20 treatment claims as provided in the Prayer for Relief below.

21 **SECOND CLAIM FOR RELIEF**
 22 **VIOLATION OF TITLE VII—NON-CLASS CLAIMS FOR DISPARATE TREATMENT**

23 182. Plaintiffs incorporate by reference the allegations of paragraphs 1 through
 24 181, above, as though fully set forth herein. This claim is brought on behalf of the named
 25 Plaintiffs individually for their non-class claims.

26 183. Defendant intentionally discriminated against named Plaintiffs Brown,
 27 Gonzales, Merritt, Smith, Stevenson, Satchell, and Boykin on the basis of their race.
 28

1 184. Defendant subjected named Plaintiffs Brown, Gonzales, Merritt, Smith,
2 Stevenson, Satchell, and Boykin to a racially hostile work environment.

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

7 186. Defendant intentionally discriminated against Plaintiff Gonzales by failing
8 to rehire him from disability.

9 187. Defendant intentionally discriminated against Plaintiff Merritt by singling
10 him out for discipline and by denying him leave without pay.

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

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

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

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

20 192. 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.

23 193. Plaintiffs request relief as to both their disparate impact and disparate
24 treatment claims as provided in the Prayer for Relief below.

25
26 **THIRD CLAIM FOR RELIEF**
VIOLATION OF 42 U.S.C. § 1981—CLASS CLAIMS

27 194. Plaintiffs incorporate by reference the allegations of paragraphs 1 through
28 193, above, as though fully set forth herein.

1 195. This claim is brought on behalf of all Plaintiffs and the Minority Employee
2 Class and the African American Lower-Level Manager Class.

3 196. The class period for both the Minority Employee Class and the African
4 American Lower-Level Manager Class for this Claim for Relief is from October 17, 1999 to the
5 date of judgment in this action.

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

9 198. The foregoing conduct constitutes illegal intentional discrimination with
10 respect to the making, performance, modification, and termination of contracts prohibited by
11 42 U.S.C. § 1981.

12 199. Plaintiffs request relief as provided in the Prayer for Relief below.

13
14 **FOURTH CLAIM FOR RELIEF**
15 **VIOLATION OF 42 U.S.C. § 1981—NON-CLASS CLAIMS**

16 200. Plaintiffs incorporate the allegations of paragraphs 1 through 199, above,
17 as though full set forth herein.

18 201. This claim is brought on behalf of the named Plaintiffs individually for
19 their non-class claims.

20 202. Defendant intentionally discriminated against named Plaintiffs Brown,
21 Gonzales, Merritt, Smith, Stevenson, Satchell, and Boykin on the basis of their race.

22 203. Defendant intentionally discriminated against Plaintiff Brown by
23 subjecting her to more burdensome work conditions than similarly situated non-Minority
24 employees, subjecting her to harassment, and retaliating against her for filing a discrimination
25 complaint.

26 204. Defendant intentionally discriminated against Plaintiff Gonzales by failing
27 to rehire him from disability.

28 205. Defendant intentionally discriminated against Plaintiff Merritt by singling

1 him out for discipline and by denying him leave without pay.

2 206. Defendant intentionally discriminated against Plaintiff Smith by retaliating
3 against him for filing a discrimination complaint and terminating him.

4 207. Defendant intentionally discriminated against Plaintiff Stevenson by
5 subjecting him to harassment.

6 208. Defendant intentionally discriminated against Plaintiff Satchell by
7 retaliating against him for filing a discrimination complaint and terminating him.

8 209. Defendant intentionally discriminated against Plaintiff Boykin by
9 subjecting her to more burdensome work conditions than similarly situated non-Minority
10 employees.

11 210. Defendant's discriminatory and retaliatory practices have resulted in the
12 loss of past and future wages and other job benefits, and have caused Plaintiffs to suffer
13 humiliation, embarrassment and emotional distress.

14 211. Plaintiffs request relief as to both their disparate impact and disparate
15 treatment claims as provided in the Prayer for Relief below.

16
17 **FIFTH CLAIM FOR RELIEF**
VIOLATION OF CALIFORNIA FEHA-CLASS CLAIMS

18 212. This claim is brought on behalf of all members of the classes who are or
19 were employed by Defendant in California and/or who reside in California, including all the
20 named Plaintiffs except for Plaintiff Merritt.

21 213. The class period for the Minority Employee Class for this Claim for Relief
22 is from June 13, 2001 through the date of judgment in this action. The class period for the
23 African American Lower-Level Manager Class for this Claim for Relief is from July 31, 2001
24 through the date of judgment in this action.

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

1 A. **Disparate Impact**

2 215. As to disparate impact, Plaintiffs incorporate by reference the allegations of
3 paragraphs 1 through 31, 33 through 66, 72 through 77, 81 through 87, 91 through 98, 102
4 through 106, 110 through 117, 123 through 128, 132 through 140, 149 through 166, and 172
5 through 214, above, as though fully set forth herein.

6 216. Defendant has maintained a system for making decisions about
7 promotions, assignments (as to the Minority Employee Class), compensation, and discipline
8 which is excessively subjective and which has had a disparate impact on Plaintiffs, the Minority
9 Employee Class, and the African American Lower-Level Manager Class. This system cannot be
10 justified by business necessity, but even if it could be so justified, less discriminatory alternatives
11 exist that could equally serve any alleged necessity. Defendant's policies and practices that have
12 a disparate impact on Plaintiffs and the classes they represent are alleged in paragraph 43 above.

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

19 B. **Disparate Treatment**

20 218. As to disparate treatment, Plaintiffs incorporate by reference the allegations
21 of paragraphs 1 through 217, above, as though fully set forth herein.

22 219. Defendant has engaged in a pattern and practice of intentional
23 discrimination against Plaintiffs and the classes in promotions, assignments (as to the Minority
24 Employee Class), compensation, and discipline.

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

28 221. As a result of such violations of FEHA, the named Plaintiffs and members

1 of the classes residing or employed in California have suffered the loss of past and future wages
2 and other job benefits, and have suffered humiliation, embarrassment and emotional distress.

3 222. Plaintiffs request relief as to both their disparate impact and disparate
4 treatment claims as provided in the Prayer for Relief below.

5
6 **SIXTH CLAIM FOR RELIEF**
VIOLATION OF CALIFORNIA FEHA—NON-CLASS CLAIMS

7 223. Plaintiffs incorporate paragraphs incorporate by reference the allegations of
8 paragraphs 1 through 222, above, as though fully set forth herein.

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

11 225. Defendant intentionally discriminated against named Plaintiffs Brown,
12 Gonzales, Smith, Stevenson, Satchell, and Boykin on the basis of their race.

13 226. Defendant subjected named Plaintiffs Brown, Gonzales, Smith, Stevenson,
14 Satchell, and Boykin to a racially hostile work environment.

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

19 228. Defendant intentionally discriminated against Plaintiff Gonzales by failing
20 to rehire him from disability.

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

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

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

27 232. Defendant intentionally discriminated against Plaintiff Boykin by
28

1 subjecting her to more burdensome work conditions than similarly situated non-Minority
2 employees.

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

6 234. Plaintiffs request relief as provided in the Prayer for Relief below.

7 **RELIEF ALLEGATIONS**

8 235. Plaintiffs and the classes they represent have no plain, adequate or
9 complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in
10 this action is the only means of securing complete and adequate relief. Plaintiffs and the classes
11 they represent are now suffering and will continue to suffer irreparable injury from Defendant's
12 discriminatory acts and omissions.

13 236. The actions on the part of Defendant have caused and continue to cause
14 Plaintiffs and the classes substantial losses in earnings, other compensation, desirable job
15 assignments, promotions, and other employment benefits, in an amount to be determined
16 according to proof.

17 237. The actions on the part of Defendant have caused Plaintiffs and the classes
18 to suffer humiliation, embarrassment and emotional distress.

19 238. Defendant acted or failed to act as herein alleged with malice or reckless
20 indifference to the protected rights of Plaintiffs and members of the classes. Plaintiffs and
21 members of the classes are thus entitled to recover punitive damages in an amount to be
22 determined according to proof.

23 **PRAYER FOR RELIEF**

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

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

28 2. Damages and equitable relief for all harm the individual Plaintiffs and the

1 classes have sustained as a result of Defendant's conduct, including back pay, front pay,
2 compensatory damages for emotional distress, and general and special damages for lost
3 compensation and job benefits that they would have received but for the discriminatory practices
4 of Defendant, and punitive damages, according to proof;

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

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

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

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

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

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

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

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

27 11. An order adjusting the wage rates and benefits for Plaintiffs and the classes
28 to that level which Plaintiffs and the classes would be enjoying but for Defendant's

discriminatory practices;

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

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

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

Dated: October 12, 2005

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

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Facsimile: (415) 358-5576

James M. Finberg (SBN 114850)
Bill Lann Lee (SBN 108452)
Lexi J. Hazam (SBN 224457)
Chimène I. Keitner (SBN 226948)
Nirej S. Sekhon (SBN 213358)
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

KAY MCKENZIE PARKER (SBN 143140)
703 Market Street, Suite 1401
San Francisco, CA 94103
Telephone: (415) 227-9622
Facsimile: (415) 227-4522

WAUKEEN Q. McCOY (SBN 168228)
703 Market Street, Suite 1407
San Francisco, CA 94103
Telephone: (415) 675-7705
Facsimile: (415) 675-2530

Class Counsel and Counsel for the Plaintiffs

discriminatory practices;

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

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

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

Dated: October 12, 2005

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

By: /s/ James M. Finberg
James M. Finberg

Todd M. Schneider (SBN 158253)
Guy B. Wallace (SBN 176151)
Joshua Konecky (SBN 182897)
SCHNEIDER & WALLACE
180 Montgomery Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 421-7100
Facsimile: (415) 421-7105

JOHN BURRIS (SBN 69888)
7677 Oakport Blvd., Suite 1120
Oakland, CA 94612
Telephone: (510) 839-5210
Facsimile: (510) 839-3882

MICHAEL S. DAVIS (SBN 160045)
345 Hill Street
San Francisco, CA 94109
Telephone: (415) 282-4315
Facsimile: (415) 358-5576

James M. Finberg (SBN 114850)
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San Francisco, CA 94103
Telephone: (415) 675-7705
Facsimile: (415) 675-2530

Class Counsel and Counsel for the Plaintiffs

DEMAND FOR JURY TRIAL

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

Dated: October 12, 2005

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

By: /s/ James M. Finberg
James M. Finberg

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San Francisco, CA 94103
Telephone: (415) 675-7705
Facsimile: (415) 675-2530

Class Counsel and Counsel for the Plaintiffs

EXHIBIT

A

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.

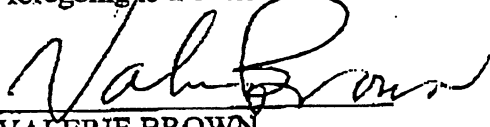
Fedex and its officials have retaliated against me for complaining about race-based discrimination. Among other things, Fedex has retaliated against me by improperly disciplining me.

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

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.			
<u>CA DEPT FAIR EMPLOYMENT & HOUSING</u>		and EEOC	
<i>State or local Agency, if any</i>			
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 CA 95376	
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 +)	
STREET ADDRESS 335 Brokaw Road, Santa Clara, CA 95050		CITY, STATE AND ZIP CODE CA 95050	
NAME		TELEPHONE NUMBER (Include Area Code) 085	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		EARLIEST LATEST 05/03/1982 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.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing 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.	
Date _____ Charging Party (Signature) _____		SIGNATURE OF COMPLAINANT _____	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	

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> <i>State or local Agency, if any</i>		and EEOC	
NAME (Indicate Mr., Ms., Mrs.)		HOME TELEPHONE (Include Area Code)	
Mr. Rick Gonzales		(909) 303-9855	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
45323 Vista Verde, Temecula, CA 92592		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		NUMBER OF EMPLOYEES, MEMBERS	
FedEx Corporation		Cat D (501 +)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
Santa Fe Springs, Santa Fe Springs, CA 90670		COUNTY	
		037	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)		EARLIEST LATEST 06/01/2000 09/13/2002	
		☐ 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.		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

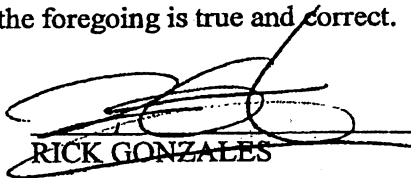

RICK GONZALES

EXHIBIT C

204

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 340A202078
Form is affected by the Privacy Act of 1974; See Privacy Act Statement before filling this form.			
CA Dept. Fair Employment & Housing <i>State or local Agency, if any</i>		and EEOC	
(Indicate Mr., Ms., Mrs.) Cynthia Guerrero		HOME TELEPHONE (Include Area Code) (562) 699-5518	
ADDRESS 19 Pioneer Blvd. #201, Santa Fe Springs, CA 90670		DATE OF BIRTH 12/29/1975	
IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If not, check box below.)			
Federal Express		NUMBER OF EMPLOYEES, MEMBERS Cat B (501 +)	TELEPHONE (Include Area Code) (562) 946-0731
ADDRESS 19 Ann St. Santa Fe Springs, CA 90670		COUNTY 037	
TELEPHONE NUMBER (Include Area Code)			
ADDRESS CITY, STATE AND ZIP CODE		COUNTY	
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	
ARTICULARS ARE (If additional space is needed, attach extra sheet(s)) On or about October 10, 1995, I began employment at Federal press. 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. The reasons given to me for the discipline are varied and include but are not limited to, missing van scans, air bill pieces missing, etc. 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 am not filing this charge 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)	



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

370-2003-09677

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

City, State and ZIP Code

9039 Pioneer Blvd J201 Santa Fe Springs, CA 90670

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

City, State and ZIP Code

9339 Ann St Santa Fe Springs, CA 90670

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.

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, 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.

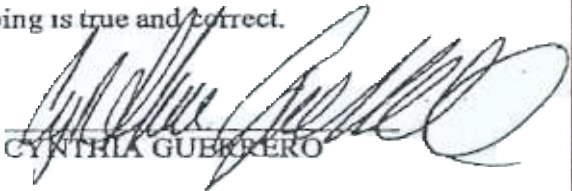
On or about September 20, 2002, I left work on medical leave. On January 5, 2003, FedEx informed me that I could not return to work because I had been displaced from my position. I contend that the discrimination continues to the present, as I have not been allowed to return to work, while other employees 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: 22 Sep 2003, 2003


CYNTHIA GUERRERO

RECEIVED

JUN 18 2003

EEOC-SFDO

EXHIBIT D

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

370-2003-09590

California Department Of Fair Employment & Housing

and EEOC

State or local Agency, if any

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

Ms. Rachel Hutchins

Home Phone No. (Incl Area Code)

(661) 832-5366

Date of Birth

12-12-1976

Street Address

City, State and ZIP Code

1027 Bachelor Street Bakersfield, CA 93307

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

2103 Airport Drive Bakersfield, CA 93308

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

05-13-2003

CONTINUING ACTION

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

SEE ATTACHED**RECEIVED****MAY 27 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.

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, 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

STATEMENT

EEOC CHARGE STATEMENT

I, RACHEL HUTCHINS, state as follows:

1.

I am 27 years of age. I am an African American female. I hold Social Security number 567-45-9072. My date of birth is December 12, 1976. I reside at 4600 Planz Road, Apt C, Bakersfield, CA 93309. My telephone number is (661) 832-4249.

2.

My complaint is against Fedex Express Corporation (hereinafter "Respondent"), which is located at 2103 Airport Drive, Bakersfield, CA 93308. The telephone number is (800) 463-3339. I began my most recent employment with Respondent on or about March 2, 2001. My job classification was casual, part-time Handler. My immediate supervisor was Tim Braly.

3.

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

4.

I previously filed a charge of discrimination with the EEOC on or about May 27, 2003 (Charge No. 370-2003-09590), for race-based disparate treatment by Respondent Fedex, and received a Right-To-Sue Letter. Subsequently, I joined as a plaintiff in a lawsuit, filed on or about June 24, 2003, in United States District Court for the Northern District of California, entitled *Satchell, et. al. v. Fedex Corp, et. al*, Case No. C 03-02 878 WHA, alleging class claims of race discrimination in compensation, promotion and terms and conditions of employment.

5.

Respondent Fedex has retaliated against me for complaining of race-based discrimination, for filing a charge with the EEOC and for joining as a party to a class action lawsuit alleging race discrimination. From approximately May 2002 through April 2003, I worked approximately 15 to 25 hours a week as a Customer Service Agent for Respondent. However, in May 2003, Respondent began scheduling me to perform more physically demanding Handler responsibilities and reduced my work hours to approximately 5 hours a week. This reduced schedule continued through the remainder of my employment with Respondent.

STATEMENT

Respondent's retaliation followed complaints to my immediate managers and to the EEOC for race discrimination in failing to promote me into the Customer Service Agent position. I had been previously trained for the Customer Service Agent position; I was performing the duties and responsibilities of the position without corresponding compensation or benefits; I had been promised promotion to the position by Respondent; and I had trained others for the position, including an employee that was hired for the position after I had begun regularly working in the position

6.

On January 20, 2004, Respondent further retaliated against me by wrongfully terminating my employment with the Company without cause. At the time of my termination, several other African American Handlers were also terminated for lack of work. However, within days, Respondent hired Caucasians employees to fill the Handler positions.

7.

Respondent's agents, Paul Bennett, Tim Braly and Charles McQueen, among others, are responsible for the discrimination and retaliation to which I was subjected, and for not taking all reasonable steps to prevent this discrimination and retaliation from occurring.

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

Dated: August 11, 2004

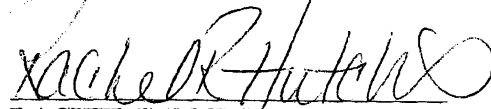

RACHEL HUTCHINS

EXHIBIT E

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 350-2005-00982
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
ARIZONA CIVIL RIGHTS DIVISION (PHOENIX) and EEOC <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.) Mr. Tyrone Merritt		HOME TELEPHONE (include area code) (480) 228-0986	
STREET ADDRESS 1750 S. Alma School Rd, Apt. 103	CITY, STATE AND ZIP CODE Mesa, Arizona 85210	DATE OF BIRTH 08/29/62	
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 one, list under PARTICULARS below.)			
NAME FedEx	NUMBER OF EMPLOYEES, MEMBERS 500+	TELEPHONE (include area code) (602) 392-7290	
STREET ADDRESS 3002 E. Old Tower Rd.	CITY, STATE AND ZIP CODE Phoenix, Arizona 85034	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 ☒ 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 procedure.		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. 11/27/04 Date		SIGNATURE OF COMPLAINANT Tyrone Merritt Charging Party (signature)	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

04 DEC 2 AM 11 51 EEOC-PXD

I am an African-American male. I was hired by FedEx to work in Memphis, Tennessee on September 24, 1998. I began with FedEx as a permanent part-time International Heavy Weight Handler, an entry level position. In the Fall of 2001, I transferred from Memphis to Phoenix, Arizona. I made this move because I had been told that my chances of receiving a promotion were higher working for FedEx in Arizona rather than in Tennessee. I have not received a promotion to date and believe that this is the case because of my race.

I was assigned the position of nighttime Handler on a permanent part-time basis in Phoenix. This is an entry level position. My goal was to obtain a promotion to the position of Information Agent or Courier. My ultimate goal was to enter Management at FedEx and I saw both the Information Agent and Courier positions as stepping stones towards my ultimate goal.

I was informed by my manager Dan Welch that I would have to take the Basic Skills Test ("BST") in order to be eligible to apply for a promotion.

I took the BST on February 23, 2003 and failed it. It was my understanding that I could not take the BST again for at least six months. I was very discouraged after failing the BST. I have a college degree from The University of Phoenix in Electronic Business and do not understand why I did not pass the BST. I did not see any point in taking the exam again because I was told by my manager Dan Welch that there was nothing I could do to prepare for it and I did not want to fail it again.

Since having taken and failed the BST, there have been numerous postings for Courier and Information Agent positions at the Phoenix Ramp where I work. I would have applied for the Courier positions were it not for my having failed the BST. I believe that I would have received one of these positions if I had passed the BST.

I believe that I have been discriminated against by FedEx as part of its pattern and practice of racially discriminating against African-American and Latino employees in promotions because:

1. I am qualified for a promotion to Courier, Ramp Transport Driver (RTD), or Customer Service Agent but for my failure to pass the BST;
2. The BST is a cognitive ability test. It tests abilities related to few important job tasks, and it does not test many abilities that are important for the jobs of Courier, RTD, and Customer Service Agent; and
3. The BST has statistically significant adverse impact on African-Americans and Latinos. The adverse impact of the BST is extraordinarily large and disqualifies minority applicants who are otherwise qualified for Courier, RTD, and Customer Service Agent jobs. FedEx is aware of this statistically significant adverse impact. FedEx has disregarded its obligation to validate the BST as it is used at FedEx, and to explore alternative selection methods that would reduce or eliminate adverse impact.

In addition, I have applied for multiple promotions for which I believe I was qualified, but which were denied me. For example, I have applied for a dispatcher position, material handler

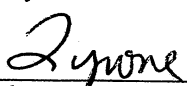
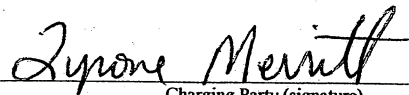
position, and ramp agent position, none of which I received. Upon information and belief, similarly situated white employees received these promotions over me.

I have also been subject to harsher discipline than similarly situated white colleagues of mine. For instance, in approximately February of this year, I was reprimanded by my manager for a "drop can" violation because a can containing packages fell from my dolly. Soon after I received this reprimand I am aware that two white colleagues of mine dropped cans from their dollies, but they received no reprimands.

Because of FedEx's racially biased disciplinary and evaluation policies and practices, I have been denied fair compensation.

I bring this charge on behalf of myself and similarly situated African-American and Latino FedEx employees in FedEx's Western Region who have been denied promotional opportunities, been unfairly disciplined, and denied fair compensation as a result of their race.

I also believe that I have been subject to disparate treatment. Approximately six months ago, I was denied leave without pay ("LWOP") while other white employees were permitted to take LWOP. I bring this claim on behalf of myself only.

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		☐ FEPA ☒ EEOC	
ARIZONA CIVIL RIGHTS DIVISION (PHOENIX) and EEOC <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.) Mr. Tyrone Merritt		HOME TELEPHONE (include area code) (480) 228-0986	
STREET ADDRESS 1750 S. Alma School Rd, Apt. 103		CITY, STATE AND ZIP CODE Mesa, Arizona 85210	DATE OF BIRTH 08/29/62
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 one, list under PARTICULARS below.)			
NAME FedEx		NUMBER OF EMPLOYEES, MEMBERS 500+	TELEPHONE (include area code) (602) 392-7290
STREET ADDRESS 3002 E. Old Tower Rd.		CITY, STATE AND ZIP CODE Phoenix, Arizona 85034	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 ☒ CONTINUING ACTION
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): This charge supplements Charge # 350-2005-00982. See attached narrative for particulars.			
☒ 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 procedure. 		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. June 29, 2005 Date		SIGNATURE OF COMPLAINANT  Charging Party (signature)	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

I am an African-American male. All of the information submitted in my charge of discrimination against FedEx (charge number 350-2005-00982) remains true. Since filing that charge, I have still not received a promotion and believe that this is the case because of my race. In addition, since having filed charge number 350-2005-00982, I have once again taken *and failed* the Basic Skills Test ("BST").

The BST was most recently offered for FedEx employees at the facility where I am employed on May 24, 2005. The BST exam contains four parts all of which must be passed in order to be eligible for promotions to the Courier position. I did not pass all of the four sections. Attached hereto is a copy of my test results from the May 24, 2005 BST.

There have been notices posted for open Courier positions since May 24, 2005 when I took and failed the BST. I would have applied for these positions were it not for my having failed the BST. I believe that I would have received one of these positions if I had passed the BST.

As noted in my original charge, I believe that the BST is part of FedEx's pattern and practice of racially discriminating against African-American and Latino employees in promotions.

Since having filed my original charge, I have applied for promotions to a few position that I was qualified for, but which were denied to me nonetheless. For example, on two occasions, I applied for a Dangerous Goods Specialist position, both of which were given to less qualified white applicants over whom I had seniority. Approximately two weeks ago, I applied for a Dispatcher position. That position was also filled by a white applicant.

I bring this charge on behalf of myself and similarly situated African-American and Latino FedEx employees in FedEx's Western Region who have been denied promotional opportunities, been unfairly disciplined, received unfair performance evaluation scores, and denied fair compensation as a result of their race.

NEXT SCREEN:

FEDERAL EXPRESS
* * * * * P R I S M * * * *

PEP240
06/11/05
04:43:34

GENERAL TESTING INQUIRY SCREEN

ENTER EITHER SOCIAL SECURITY NUMBER (OR) EMPLOYEE NUMBER BELOW
SSN: 425316985

EMP: 342943 Tyrone Merritt

ENTER TEST NAME:-----> TEST NAME: BASICSKILL
BASIC SKILLS TESTS

DATE TAKEN: 05 24 05 (MM DD YY)
EXPR DATE : (MM DD YY)

TEST ADMINISTERED BY EMP:

COMPONENT	SCORE	COMPONENT	SCORE
COURIER/RTD	F	SERVAGENT	P
CUST REP	P	READING	P
MAP READING	F	LISTENING	P
SORTING	P		

READING, MAP, LISTENING & SORTING REQUIRED FOR COURIER/RTD. READING, LISTENING & SORTING REQUIRED FOR SERV AGENT. READING & LISTENING REQUIRED FOR CUST REP. EACH TEST P/F IS ONLY FOR DATES AFTER 10/3/99.

ENTER: HELP=CODES/INSTRUCTIONS, RETURN=PREVIOUS MENU, BYE=LOGOFF
PRESS ENTER TO DISPLAY ADDITIONAL TEST RESULTS.

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. (Ind 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-SDO**

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

KEOC 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

STATEMENT

6.

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

7.

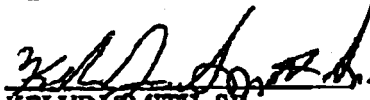
The discrimination continued through August 2002, when Respondent upheld its discriminatory discipline and termination, after I initiated an appeal via FedEx's internal Guaranteed Fair Treatment process.

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 # 2200203-G-0079-01xc

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Mr., Mrs., 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 Inazio, Federal Express, Corey Walker

ADDRESS

335 Broder Dr

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
☐ gender characteristics (sex)
☐ 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 social pay
☐ denied right to wear pants
☐ denied pregnancy accommodation

by Angela Inazio

Name of Person

Sr. Manager

Job Title Supervisor/Manager/personnel director (etc.)

because of my:

☐ sex
☐ age
☐ religion
☐ race/ethnicity

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

☐ physical disability
☐ mental disability
☒ other (specify)

☐ cancer
☐ genetic characteristics

☒ I could not file
☐ proceedings per labor law
☐ investigation or litigation (etc.)

Retaliation wrongful termination

the reason given by Angela Inazio

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 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 being information and belief, and as to those matters I believe it to be true.

Date 7-21-02

At San Jose

City

COMPLAINANT'S SIGNATURE RECEIVED

JUL 22 2002

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

STATE OF CALIFORNIA

DATE FILED:

JUL 22 2002

DFEH-300-02 (07/01)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

LBB ZSS:ON

90127 7000 67118

EXHIBIT G

Jul 15 03 09:43a

M earty & Ware

562- 6-5844

p.3

CHARGE OF DISCRIMINATION		AGENCY ☐ FEPA ☒ EEOC	CHARGE NUMBER 340A:02065
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
CA Dept. Fair Employment & Housing <i>State or local Agency, if any</i>		and EEOC	
NAME (Indicate Mr., Mr., 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 DATE OF BIRTH 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 +)	TELEPHONE (Include Area Code) (800) 479-9957
STREET ADDRESS 9339 Ann St. Santa Fe Springs, CA 90670		CITY, STATE AND ZIP CODE COUNTY 037	
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 04/01/2001 LATEST 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.		SIGNATURE OF COMPLAINANT	
Date 6/13/02 Charging Party (Signature) Ken Stevenson		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	

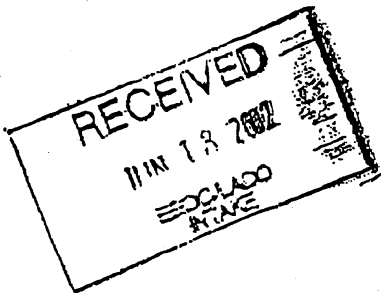


EXHIBIT H

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

City, State and ZIP Code

960 Cherry Blossom Lane Tracy, CA 95377

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

335 Brokaw Road Santa Clara, CA 95050

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

01-01-1993

08-28-2002

☐ 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 14, 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, 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 (501)

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**☒ CONTINUE 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 1631 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

11/07/2003 16:38 151062

DFEH

PAGE 04/04

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.)

Ms. Kalini N. Boykin

TELEPHONE NUMBER (INCLUDE AREA CODE)

(510) 774-9465

ADDRESS

111 Mayo Ave.

CITY/STATE/ZIP

Vallejo, CA 94590

COUNTY

Solano

COUNTY CODE

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

NAME

Federal Express Corp.

TELEPHONE NUMBER (Include Area Code)

(510) 347-2430

ADDRESS

1601 Aurora Drive

DFEH USE ONLY

CITY/STATE/ZIP

San Leandro, CA 94590

COUNTY

Alameda

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

120,000

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year)

7/3/02

RESPONDENT CODE

THE PARTICULARS ARE:

On July 3, 2002 I was

fired

laid off

demoted

harassed

genetic characteristics testing

forced to quit

denied employment

denied promotion

denied transfer

denied accommodation

impracticable 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 Robin Van Gelder

Name of Person

Managing Director

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

because of my:

sex
age
religion
race/colornational origin/ancestry
marital status
sexual orientation
associationphysical disability
mental disabilitycancer
genetic characteristic

X other (specify)

speaking out for a job promotion

X (Circle one) filing
private complaint or
investigation (check one)
investigation for

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

Kalyani

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

EEOC CHARGE STATEMENT

I, KALINI BOYKIN, state as follows:

1.

I am 31 years of age. I am an African American female. I hold Social Security number 605-01-5020. My date of birth is March 2, 1974. I reside at 9013 Montoya Drive, Sacramento, California 95826. My telephone number is (916) 364-7647.

2.

My complaint is against Federal Express Corporation (hereinafter "Respondent"), which is located at 1601 Aurora Drive, San Leandro, CA 94577. I began my most recent employment with Respondent on or about May 22, 1995. My most recent job classification is Operations Manager. My most recent immediate supervisor was Everett Rey.

3.

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

4.

I previously filed a charge of discrimination with the EEOC on or about May 4, 2003 (Charge No. 370-2003-09506), for race-based disparate treatment by Respondent Fedex, and received a Right-To-Sue Letter. Subsequently, I joined as a plaintiff in a consolidated and amended lawsuit, filed on or about November 12, 2003, in United States District Court for the Northern District of California, entitled *Satchell, et. al. v. Fedex Corp, et. al*, Case No. C 03-2659 SI, alleging class claims of race discrimination in compensation, promotion, discipline and terms and conditions of employment.

5.

Respondent Fedex has retaliated against me for complaining of race-based discrimination, for filing a charge with the EEOC and for joining as a party to a class action lawsuit alleging race discrimination. From approximately July 16, 2000 through approximately November 2003, I worked as a PM Operations manager at Respondent's OAKRO facility in San Leandro, California. My regular work hours were approximately 1:30 pm to 10:00 pm. However, on approximately November 14, 2003, my Senior Manager Everett Rey intentionally excluded me from a meeting of operations managers at the OAKRO facility where management shifts were being determined. Subsequently, he transferred me to an AM shift to which I had previously objected. The regular hours of the AM shift were from approximately 1:00 am to 10:00 am. Moreover, my manager

was aware that I could not work the hours of the AM shift because of my obligations to my two young children. Shortly after the decision to transfer me to the AM shift, I was placed on restrictions by my physician and required to take a medical leave of absence from my position.

6.

On March 12, 2004, shortly after I had returned to work from my medical leave, Respondent further retaliated against me by suspending me and threatening me with discipline for violations of Respondent's Attendance and Acceptable Conduct Policies. On March 11 and again on March 12, 2004, I had contacted my manager, Everett Rey, and informed him that I would not be reporting to work due to illness. Prior to that time, I had no other attendance issues that were not related to my authorized medical leave of absence. Moreover, I was suspended even though I presented a valid physician's note requiring the time off for medical reasons.

As for the pretextual allegations of unacceptable conduct, Rey indicated that I had failed to follow a directive and report to the AM shift to which I had been wrongfully transferred. However, Kathy Cline, the manager to whom I had reported while on the preceding medical leave of absence had instructed me to report to my previous PM shift. In accordance with Ms. Cline's directive, I had reported to the PM shift for approximately one week without incident prior to the suspension.

7.

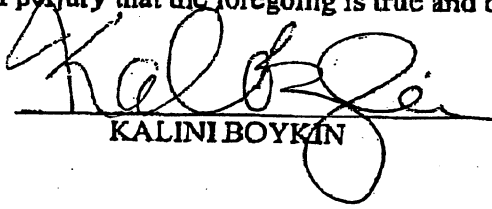
Since March 11, 2004, I have been on a second medical leave of absence and have been displaced from my management position at the OAKRO facility. Though I am currently capable of working, Respondent has continuously refused to transfer me into a suitable management position. Further, I have learned from the deposition testimony of my managers that when I return to work, I will most likely be disciplined in still further retaliation for my claims of race discrimination.

8.

Respondent's agents, Everett Rey, Robin Van Galder and Karen Keaton, among others, are responsible for the discrimination and retaliation to which I have been subjected, and for not taking all reasonable steps to prevent this discrimination and retaliation from occurring.

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

Dated: October 10 2005


KALINI BOYKIN