

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SOLOMON WILLIAMS, *et al.*,

Plaintiffs,

v.

THE BOEING COMPANY, *et al.*,

Defendants.

No. C98-761P

SECOND AMENDED CLASS ACTION
COMPLAINT

JURY TRIAL DEMANDED

I. NATURE OF THE CASE

1. Plaintiffs bring this action individually and on behalf of all African-Americans similarly situated, seeking relief from systemic discriminatory employment practices by The Boeing Company, Boeing North American, Inc., and McDonnell Douglas Corporation.

2. The plaintiffs and the Class have been treated differently than similarly situated Caucasian co-workers. The plaintiffs and the Class have been denied, based on their race, desirable job assignments, promotional opportunities, management positions, training, equal pay, overtime, comparable retention ratings, bonuses and other benefits of employment. Defendants have deterred African-American employees from seeking promotions, management positions and desirable job assignments or overtime; failed to select African-Americans for desirable job assignments; failed to effectively enforce policies prohibiting race discrimination; and retaliated

SECOND AMENDED CLASS ACTION COMPLAINT - 1 -
Case No. C98-761P

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1 against African-American employees who have protested Defendants' discriminatory policies,
2 patterns, and/or practices.

3 3. Defendants have consistently ignored complaints about these unlawful work
4 conditions, inadequately investigated African-Americans' complaints, and failed to implement
5 steps that would eliminate these unlawful working conditions.

6 4. Defendants' internal surveys, and the studies of their hired consultants, show race
7 discrimination against African-Americans in Boeing's promotion, pay and other practices.

8 5. While Boeing has strongly worded anti-discrimination policies, and many of its
9 employees honor the rights of their African-American co-workers, far too many of its managerial
10 and supervisory employees are not effectively policed, are rarely disciplined for violating the
11 rights of African-Americans, and ignore Defendants' stated policies and make employment
12 decisions disadvantageous to African-Americans. When management or co-workers are
13 disciplined for violating African-Americans' rights, the discipline is often too lenient to deter
14 future illegal conduct. It is common knowledge at Boeing that if African-Americans complain
15 about co-worker or managerial misconduct, they may be ostracized and denied meaningful future
16 employment opportunities at Boeing. African-Americans, rather than perpetrators, frequently
17 are punished by being reassigned to jobs and places that under-utilize their skills and make future
18 advancement even more difficult.

19 6. Co-workers frequently verbally harass their African-American co-workers with
20 derogatory words such as "nigger" and "coon," which has fostered a hostile work environment.

21 7. In failing adequately to protect the rights of its African-American workers, and in
22 permitting an environment in which their self-esteem and value are questioned, Defendants have
23 injured not only their African-American workers but their families and loved ones as well; have
24 denied their spouses, loved ones, and children the income due these family units; and, in doing
25 so, have impaired their emotional relationships with their spouses, loved ones, and children.
26

II. JURISDICTION AND VENUE

8. This court has jurisdiction pursuant to 28 U.S.C. § 1331, 1343, and 1367, and 42 U.S.C. § 2000e-5(f)(3).

9. Venue lies in this district pursuant to 28 U.S.C. § 1391.

III. THE PARTIES

10. The plaintiffs are African-American who have suffered racially discriminatory employment policies and practices at the hands of the defendants and their predecessors-in-interest (collectively "Defendants"). The plaintiffs comprise both hourly and salaried workers. They are qualified persons who have been denied the opportunity for promotion, equal pay, and overtime, who have been injured because of low retention ratings, who have been laid off unfairly, who have been subjected to a hostile work environment, and/or who have been retaliated against because of Defendants' policies and practices of racial discrimination.

11. Plaintiff Solomon Williams resides in King County, Washington. Mr. Williams is an employee of defendant Boeing, or one of its subsidiaries, in Auburn.

12. Plaintiff William Bell resides in Pierce County, Washington. Mr. Bell is an employee of defendant Boeing in Auburn, Washington.

13. Plaintiff Kevin Biglow resides in Segwick County, Kansas. Mr. Biglow is employed at defendant Boeing, or one of its subsidiaries, in Wichita.

14. Plaintiff David Brawley resides in King County, Washington. Mr. Brawley is an employee of defendant Boeing, or one of its subsidiaries, in Seattle.

15. Plaintiff Rhonda Capps resides in Pierce County, Washington. Mr. Capps is an employee of defendant Boeing, or one of its subsidiaries, in Seattle.

16. Plaintiff Carol Calender resides in Florissant, Missouri. Ms. Calender is an employee of defendant Boeing, or one of its subsidiaries, in St. Louis.

17. Plaintiff Mary Dean resides in Segwick County, Kansas. Ms. Dean is an employee of defendant Boeing, or one of its subsidiaries, in Wichita.

1 18. Plaintiff Michael Eckles resides in Pierce County, Washington. Mr. Eckles is an
2 employee of defendant Boeing, or one of its subsidiaries, in Auburn.

3 19. Plaintiff Cynthia Evans resides in Pierce County, Washington. Ms. Evans is an
4 employee of defendant Boeing, or one of its subsidiaries, in Auburn.

5 20. Plaintiff Doreen Ferguson resides in Pierce County, Washington. Ms. Ferguson is
6 an employee of defendant Boeing, or one of its subsidiaries, in Auburn.

7 21. Plaintiff Mara Ferrari resides in King County, Washington. Ms. Ferrari is an
8 employee of defendant Boeing, or one of its subsidiaries, in Renton.

9 22. Plaintiff Terry Fisher resides in Segwick County, Kansas. Ms. Fisher is an
10 employee of defendant Boeing, or one of its subsidiaries, in Wichita.

11 23. Plaintiff Charles Jones resides in Segwick County, Kansas. Mr. Jones is an
12 employee of defendant Boeing, or one of its subsidiaries, in Wichita.

13 24. Plaintiff Tim Jones resides in St. Charles County, Missouri. Mr. Jones is an
14 employee of defendant Boeing, or one of its subsidiaries, in St. Louis.

15 25. Plaintiff Wendy Kelly resides in King County, Washington. Ms. Kelly is an
16 employee of defendant Boeing, or one of its subsidiaries, in Everett.

17 26. Plaintiff Theodosia Knauls resides in Tulsa, Oklahoma. Ms. Knauls is employed
18 at defendant Boeing, or one of its subsidiaries, in Tulsa.

19 27. Plaintiff Myron Knight resides in King County, Washington. Mr. Knight is an
20 employee of defendant Boeing, or one of its subsidiaries, in Renton.

21 28. Plaintiff Verlene Maholmes resides in Segwick County, Kansas. Ms. Maholmes
22 is an employee of defendant Boeing, or one of its subsidiaries, in Wichita.

23 29. Plaintiff Michael Marion resides in St. Louis, Missouri. Mr. Marion is employed
24 at defendant Boeing, or one of its subsidiaries, in St. Louis.

25 30. Plaintiff Shirley Miller resides in King County, Washington. Ms. Miller is an
26 employee of defendant Boeing, or one of its subsidiaries, in Auburn.

1 31. Plaintiff Ronnie Mitchell resides in Tulsa, Oklahoma. Mr. Mitchell is employed
2 at defendant Boeing, or one of its subsidiaries, in Tulsa.

3 32. Plaintiff Evalean Moore resides in St. Louis, Missouri. Ms. Moore is an
4 employee of defendant Boeing, or one of its subsidiaries, in St. Louis.

5 33. Plaintiff David Roberts resides in Segwick County, Kansas. Mr. Roberts is an
6 employee of defendant Boeing, or one of its subsidiaries, in Wichita.

7 34. Plaintiff Eleanor Staton resides in King County, Washington. Ms. Staton is an
8 employee of defendant Boeing, or one of its subsidiaries, in Renton.

9 35. Plaintiff Clarence Thompson resides in King County, Washington.
10 Mr. Thompson is an employee of defendant Boeing, or one of its subsidiaries, in Everett.

11 36. Plaintiff Brian Todd resides in Los Angeles County, California. Mr. Todd is an
12 employee of defendant Boeing, or one of its subsidiaries, in Huntington Beach.

13 37. Plaintiff Beverly Trotter resides in Segwick County, Kansas. Ms. Trotter is
14 employed at defendant Boeing, or one of its subsidiaries, in Wichita.

15 38. Plaintiff Ralph Wilson resides in Tulsa, Oklahoma. Mr. Wilson is employed at
16 defendant Boeing, or one of its subsidiaries, in Tulsa.

17 39. Plaintiff Willie Wilson resides in Tulsa County, Oklahoma. Mr. Wilson is an
18 employee of defendant Boeing, or one of its subsidiaries, in Tulsa.

19 40. Plaintiff Deborah Woods resides in King County, Washington. Ms. Woods is an
20 employee of defendant Boeing, or one of its subsidiaries, in Auburn.

21 41. Defendant The Boeing Company ("Boeing") is a Delaware corporation doing
22 business in Alabama, California, Kansas, Missouri, Oklahoma, Pennsylvania, Washington, and
23 other states. Boeing is engaged in interstate commerce and employs approximately 238,000
24 persons in the United States, primarily providing aircraft, aerospace and related technology, and
25 other products. Unless stated otherwise, references to defendant Boeing include all of its
26 successors, predecessors, affiliates and subsidiaries.

42. Defendant Boeing North American, Inc. ("BNA") is a Delaware corporation and wholly-owned subsidiary of the defendant Boeing doing business in California, Washington, and other states. It is engaged in interstate commerce and employs thousands of persons in the United States. It and defendant Boeing are liable jointly and severally for all the violations alleged herein with regard to plaintiffs and the Class employed at facilities owned or operated in whole or in part by BNA. Unless stated otherwise, references to defendant BNA include its successors, predecessors, affiliates and subsidiaries. BNA and Boeing are jointly and severally liable for the discriminatory practices and policies of BNA's predecessors-in-interest to the extent they employed any of the plaintiffs or Class members.

43. Defendant McDonnell Douglas Corporation ("MDC") is a Maryland corporation and wholly-owned subsidiary of Boeing doing business in California, Missouri, Washington and other states. It and defendant Boeing are liable jointly and severally for all the violations alleged herein with respect to plaintiffs and the Class employed at facilities owned or operated in whole or in part by MDC. Unless stated otherwise, references to MDC include its successors, predecessors, affiliates and subsidiaries. MDC is engaged in interstate commerce and employs thousands of persons in the United States. MDC and Boeing are jointly and severally liable for the discriminatory practices and policies of MDC's predecessors-in-interest to the extent they employed any of the plaintiffs or the Class.

IV. CLASS ALLEGATIONS

44. Plaintiffs sue on their own behalf and, with the exception of one named plaintiff, on behalf of a class of persons pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3).¹

45. Plaintiffs bring Counts I and II of this complaint on behalf of a Class, defined as all African-Americans who have been employed by Defendants or any of their operating

¹ Class counsel will not proffer Mary Dean as a class representative, but she is nonetheless a Class member. Class counsel do not represent Ms. Dean individually but are preserving her rights as to her individual claims by preserving her position as a named plaintiff.

1 divisions or subsidiaries at any time and for any length of time during the period from June 6,
2 1994, to present ("Class Period").

3 46. Plaintiffs seek class certification only with respect to their claims for violation of
4 Title VII of the Civil Rights Act of 1964, as amended, and violation of 42 U.S.C. § 1981, as
5 amended.

6 47. There are approximately 15,000 Class members, residing in Alabama, California,
7 Kansas, Missouri, Nebraska, Oklahoma, Pennsylvania and Washington, among other places.
8 The Class is so numerous and geographically distributed that joinder of all Class members is
9 impracticable.

10 48. Questions of fact and law common to the Class include, among others:

11 a. whether African-Americans have not obtained the promotions, salary,
12 overtime, retention ratings, and job opportunities obtained by equally or less qualified white
13 employees, and were being laid off at a higher rate than equally or less qualified Caucasians;

14 b. whether Defendants' conduct alleged in this complaint violates Title VII
15 of the Civil Rights Act of 1964, as amended, and 42 U.S.C. § 1981, as amended;

16 c. whether Defendants have intentionally carried out racially discriminatory
17 policies and practices alleged in this complaint;

18 d. whether Defendants' policies and practices have resulted in disparate
19 impact on the basis of race;

20 e. whether Defendants' policies and practices are consistent with business
21 necessity

22 f. whether Plaintiffs and the members of the Class are entitled to back pay,
23 benefits and lost wages, and if so, in what amounts;

24 g. whether Plaintiffs and the members of the Class have sustained damage
25 and, if so, in what amounts; and
26

1 h. whether Defendants' current policies and practices affecting Plaintiffs and
2 Class members should be eliminated and replaced by new policies and practices and, if so, which
3 ones.

4 49. Plaintiffs' claims are typical of the claims of the Class members.

5 50. Plaintiffs and Class counsel will fairly and adequately protect the interests of the
6 Class.

7 51. Defendants have acted/refused to act and are acting/refusing to act on grounds
8 generally applicable to the Class, thereby making appropriate final injunctive or corresponding
9 declaratory relief with respect to the Class as a whole.

10 52. Common questions of fact and law predominate over questions affecting only
11 individual members.

12 53. A class action is superior to other available methods for the fair and efficient
13 adjudication of this controversy.

14 54. There are no unusual difficulties likely to be encountered in the management of
15 this litigation as a class action.

16 55. Notice to the Class (if deemed necessary) may be accomplished inexpensively,
17 efficiently and in a manner best designed to protect the due process rights of all Class members
18 by means of written notices supplied through Defendants' system of communication with their
19 employees.

20 V. FACTUAL ALLEGATIONS

21 56. During the Class Period, approximately 15,000 African-American have worked
22 for defendants. Defendants have perpetrated a company-wide pattern and practice of illegal
23 racial discrimination against African-American workers.

24 A. Boeing Executives Have Ignored Longstanding Knowledge of Racial Discrimination

25 57. Boeing executives at its Chicago (formerly Seattle) headquarters have had
26 longstanding knowledge of racial discrimination across the company's facilities, and failed to

1 take any serious action. Boeing has engaged in this discrimination intentionally and with malice,
 2 reckless disregard, or deliberate ignorance of the federal and state rights of its African-American
 3 workers.

4 58. At least since 1995, Boeing periodically performed internal analyses of disparities
 5 in salaries between Caucasians and African-Americans and other gender, racial or ethnic groups.
 6 These analyses often disclosed that African-Americans were paid less than their Caucasian
 7 counterparts at Boeing.

8 59. An internal Boeing e-mail dated January 9, 1998 also revealed findings of racial
 9 bias in a Boeing internal survey of affirmative action issues. In the e-mail, a Seattle management
 10 official, Gary Hart, reported as follows:

11 A survey of Boeing's affirmative issues were found to be as
 12 follows:

<u>Subject Areas</u>	<u>Finding</u>
<i>Hiring practices</i>	<i>Racial bias</i>
<i>Pay practices</i>	<i>Gender Bias</i>
<i>Promotion practices</i>	<i>Gender and racial bias</i>
<i>Peer working environment</i>	<i>Race issues</i>

16 Hart reported that Boeing recognized that "[o]ur behaviors have to change to a focus on
 17 evaluating what people are doing to accomplish the job they were hired to do, not evaluating
 18 their appearance, or method of expressing themselves."

19 60. African-Americans employed in salaried positions have received lower salaries
 20 than equally or less qualified Caucasians. The observed salary differences were constantly
 21 adverse to protected groups, including African-Americans.

22 61. Despite this purported recognition, racial discrimination at Boeing continued
 23 unabated. The perception at various Boeing sites was that race and/or gender influenced career
 24 progress. In November 1999, Boeing entered into a settlement of racial and gender
 25 discrimination charges with the U.S. Department of Labor. In the settlement, Boeing agreed to
 26 make across-the-board salary adjustments for minorities, conduct internal monitoring, and report

its results to the Department of Labor. In addition, Boeing agreed to create a \$4.5 million pool of funds to pay back pay and salary adjustments to salaried and executive minority and female employees who had been victims of salary inequities. Under the settlement, Boeing also was required to track the race and gender of job applicants and maintain the criteria used in generating candidates for openings. Yet these changes did not bring Caucasian and African-Americans at Boeing to a level of parity with respect to compensation, promotions, and other employment benefits.

B. Boeing's Facilities Follow Common Compensation, Promotion, and Other Employment Policies and Practices

62. Boeing's compensation policies were centrally formulated at Boeing's headquarters in Seattle, Washington. These policies were common in important respects across its facilities nationwide.

63. Boeing's website affirmed the commonality of its compensation policies for salaried employees. It stated:

The salary planning processes used for the company's four salary payrolls are fundamentally very similar, based on a single company-wide compensation philosophy for salaried payrolls. The fact that actual implementation schemes for the four payrolls have been tailored to the unique characteristics of each payroll, and go by different names, can sometimes create the false impression of fundamental differences where none exists.

64. The central factor for the salary-planning process used by Boeing was that salary was based on the employee's performance relative to other employees performing similar work. Boeing also had two corollary policies: that it would manage salaries, not raises, and that salaries were set within an approved range that represented the employee's market value.

65. Promotion policies for non-management employees also were common in critical respects across Boeing's facilities nationwide. Boeing incorporated specific controls into its promotion policies for first-level management selection process to guard against excessive subjectivity by the promoting official. Yet, it imposed no such controls on its promotion policies

1 for non-management positions, whether for competitive promotions for salaried employees,
2 competitive promotions for hourly employees, or non-competitive promotions for salaried
3 employees. This resulted in managers having the freedom to follow their own rules in selection
4 for promotions and often fostered an “old boy” system and favoritism that adversely affected
5 African-American candidates.

6 66. For example, for non-management positions, Boeing’s policy stated that a
7 manager must post – or advertise – job vacancies. However, this policy was subject to numerous
8 exceptions, and the exceptions often swallowed the rule. These exceptions left managers with
9 broad discretion in deciding when to post and when not to post and enabled them to direct
10 promotions to friends and family, resulting in racial discrimination.

11 67. Career progression was minimal for minorities, including African-Americans,
12 who did not advance to management positions. African-Americans were kept at lower-level jobs
13 longer than other similarly situated workers, in spite of the fact that these African-American
14 employees were qualified and applied for advancement. The experiences of the plaintiffs and
15 Class members were typical. African-Americans watched as co-workers were promoted above
16 them. Often African-Americans trained co-workers who later became their superiors. When
17 these African-Americans complained about promotions being based on race, not on job-related
18 criteria, Boeing management responded they can “hire who they want.”

19 68. Boeing did not maintain uniform rules at its sites governing which candidates
20 were interviewed or what to ask the candidates.

21 69. Further, African-Americans employees found it much more difficult than their
22 similarly situated Caucasian co-workers to obtain training necessary to compete for promotions.
23 For example, African-Americans were told that training classes were “full,” when they applied
24 for admission, but these same classes accommodated Caucasians who later sought admission.
25 African-Americans were told that certain training classes were necessary for advancement.
26

1 However, the same training requirements were not applied to similarly qualified Caucasians
2 seeking a promotion.

3 70. Boeing headquarters also failed to impose review procedures for promotion
4 selections at its sites to ensure accountability. In addition, the Company failed to prescribe
5 written criteria for selection decisions. These two failings again resulted in promoting officials
6 having wide discretion to use whatever selection criteria they wished and fostered favoritism that
7 inured to the benefit of Caucasians.

8 71. African-Americans started their careers at Boeing at a financial disadvantage.
9 There were racial differences in initial pay code assignments. And, starting salaries for
10 experienced new hires were generally lower for minorities and women. For example, African-
11 American engineers "received, on average, lower starting salaries than Caucasians in the
12 Northwest." The differences in starting salaries tended to track with employees throughout their
13 careers and therefore, African Americans starting low, stayed low. In fact, racial differentials in
14 salaries were generally larger and more statistically significant for longer-term employees than
15 shorter-term employees. Minorities and women typically continued to maintain lower paying
16 jobs.

17 72. African-Americans were often not paid according to their assigned tasks. Boeing
18 management channeled African-Americans to lower-paying positions, but often expected these
19 employees to perform higher-level tasks. However, if a Caucasian performed higher-level work,
20 he or she typically was promoted with increased pay. Boeing's salary planning processes often
21 increased these disparities in pay. For minorities, like African-Americans, salary planning
22 created significant differences in salaries.

23 73. African-Americans received lower retention ratings than equally or less qualified
24 Caucasians. Lower retention ratings made African-Americans more susceptible to lay-off. Also,
25 lower retention ratings hindered African-Americans' eligibility for certain other benefits.
26

1 African-Americans were laid-off at a disproportionately higher rate than their Caucasian
2 counterparts.

3 74. African-Americans were subjected to a racially hostile work environment at
4 Boeing that included, but was not limited to, racial slurs, crude and racist drawings, and other
5 intimidating tactics. For example, e-mails were circulated with derogatory statements, such as
6 "We need to Kill All Niggers." African-Americans observed documents containing racial slurs,
7 such as "KKK," "Niggerlover," "African Boys," and "Happy Nigger Day." Some of these
8 documents went so far as to depict a hangman's noose. Other comments African-Americans
9 were subjected to on a regular basis included "picking cotton," "Sambo," "nigger pick that up,"
10 and "chicken shit niggers." The racially hostile work environment was not only created by
11 Caucasian co-workers, but also by Caucasian management-level employees. Boeing
12 management allowed the racially hostile work environments to flourish unabated.

13 **C. Boeing's Employment Policies Have Allowed Managers to Exercise Excessive**
14 **Subjectivity and Fostered Pay and Promotion Decisions That Discriminate Against**
15 **African-Americans**

16 75. The excessive subjectivity permitted by Boeing's employment rules and
17 procedures resulted in managers giving benefits to friends and family and promoted an "old boy"
18 network that adversely affected African-Americans.

19 76. The excessive subjectivity given to managers by Boeing's employment
20 procedures was exhibited in numerous areas, including the following:

- 21 (1) No rules governed the practices of Boeing's salary review groups, by
22 which Caucasian and African-American employees salaries and pay raises were set;
- 23 (2) No fixed rules governed whether job openings were advertised;
- 24 (3) No fixed rules prescribed whether selecting officials must interview job
25 candidates;
- 26 (4) No fixed rules prescribed what selecting officials could ask job candidates
in interviews;

(5) No written criteria existed for promotion or hiring selection decisions;

(6) No Boeing headquarters' procedures existed for review of promotion decisions; and

(7) No meaningful guidance circumscribed managers' discretion in giving non-competitive increases in salary and pay grade.

77. In addition, African-Americans employed in hourly positions have received fewer overtime opportunities and less overtime pay than similar Caucasians. Boeing has failed to impose any objective standards or guidelines for the way that managers assign overtime to hourly workers. As a consequence, managers have assigned overtime on the basis of friendships, relationships, and an "old boy's network" that has worked to the disadvantage of African-Americans.

78. This excessive subjectivity denied plaintiffs and the Class the same compensation, promotions, and employment benefits as Boeing made available to Caucasians and violated their rights under federal and state law.

D. Boeing Has Failed to Address African-American Employees' Complaints of Racial Discrimination

79. Reports to Boeing of adverse impact and/or treatment regarding promotion, training, compensation, overtime, demotions, terminations, and hostile work environment go unheeded; are simply ignored or responded to with a form denial; investigated only in a cursory fashion; and/or the remedial measures are ineffective. The defendants used inconsistent EEO Investigation Guidelines in reviewing complaints by the African-American employees that they are treated differently than Caucasians. Some African-Americans experienced retaliation for asserting complaints of racial discrimination. In spite of official statements that defendants support equal treatment for African-Americans, the message clearly communicated to workers is that racial discrimination against African-Americans is standard operating procedure, and will not generally result in any significant, adverse employment action.

80. Indeed, before 1995 and thereafter, African-American employees have complained to defendants that they have not been treated equally as similarly situated Caucasians.

E. Boeing's Tolerance of Racial Discrimination Has Infected All Aspects of Its Employment Practices Affecting African-Americans

81. Boeing has pursued, condoned, acquiesced in, and/or failed to eliminate continuing policies and/or patterns or practices that, though often facially neutral, have adversely impacted defendants' African-American employees and/or that have the intent and effect of denying African-Americans equal job opportunities and conditions of employment. These policies or practices include, without limitation:

(1) failing and/or refusing to implement or enforce and follow a uniform posting procedure to ensure that all employees have or had equal notice of job openings and promotions;

(2) failing and refusing to establish and/or enforce a uniform and unbiased process by which Caucasian and African-American employees can apply and compete equally for promotions, training opportunities, and overtime;

(3) using a forced curve for compensation, retention, and termination decisions;

(4) failing to conduct meaningful performance reviews and informing employees about how to improve their performance;

(5) preselecting employees for promotions and favorable work opportunities;

(6) promoting individuals into managerial and supervisory positions without determining or attempting to evaluate whether they are racially-biased;

(7) promoting racially-biased individuals into managerial and supervisory positions;

1 (8) relying upon subjective, racially-biased and/or arbitrary criteria used by a
2 predominately Caucasian managerial work force in making job assignment,
3 compensation, overtime, training, termination, and promotional decisions;

4 (9) failing and refusing to consider African-American employees for desirable
5 work assignments, promotions and management positions on the same basis as Caucasian
6 employees are considered;

7 (10) discouraging and deterring African-American employees from applying
8 for desirable assignments, promotions and management positions for which they are
9 qualified;

10 (11) failing and refusing to provide African-American employees with the
11 necessary work experience and training to qualify them for more desirable positions on
12 the same basis as Caucasian employees are provided with such experience and training;

13 (12) paying African-American employees less than similarly situated
14 Caucasian employees;

15 (13) retaliating against or permitting others to retaliate against African-
16 American employees who protest the defendants' discriminatory policies and/or patterns
17 or practices;

18 (14) demoting African-American employees or reclassifying their jobs when
19 similarly situated Caucasians do not experience the same degree of demotions or
20 reclassifications;

21 (15) assigning African-American employees retention ratings that are more
22 disadvantageous to them than those assigned to similarly situated Caucasian employees;
23 and, because of those ratings, there are a disproportionate and unfair number of African-
24 American terminations;

1 (16) subjecting African-American employees to different and more rigorous
2 requirements in order to be eligible for promotional or other job opportunities than those
3 to which Caucasians are subjected;

4 (17) failing to provide African-American employees with timely and accurate
5 notice of employment opportunities;

6 (18) subjecting African-American employees to a sexually hostile and sexually
7 harassing work environment;

8 (19) denying African-Americans overtime and the more desirable work hours
9 and work shifts;

10 (20) failing to implement effective anti-discrimination investigation and
11 penalty programs; and

12 (21) failing to monitor and correct the practices of their employees, which
13 adversely impact African-American employees.

14 82. Defendants' pattern and practice of illegal employment racial discrimination has
15 persisted for decades, and continues to the present date, both with regard to the plaintiffs and the
16 Class.

17 83. Defendants' pattern and practice of racial discrimination has injured plaintiffs and
18 the Class in various ways. By failing to promote plaintiffs and other African-Americans,
19 subjecting them to a hostile work environment, and subjecting them to different terms and
20 conditions of employment, Boeing has at the very least cost the plaintiffs and the Class
21 significant income and benefits to which they are entitled. But the injuries are not limited to
22 sums appearing on a pay stub. The racial discrimination has devalued the plaintiffs and the Class
23 by telling them they are not worth as much as Caucasians. This has caused immense harm,
24 including physical and emotional pain and suffering.
25
26

F. Each Plaintiff Has Experienced Unlawful Treatment as a Result of Defendants' Corporate Policies

84. Each Plaintiff has experienced racially based discriminatory treatment.

85. Solomon Williams has worked for Boeing since 1978. He remained at Grade 8 for several years although he had more seniority and is more qualified than similarly situated Caucasians who were promoted ahead of him. When Mr. Williams was finally given a promotion to Grade 10, he was required to commute from Federal Way, Washington, to Everett, Washington, although the Caucasian employees were promoted within the plant. Mr. Williams' failure to receive promotions occurred in spite of the fact that Mr. Williams has a number of certificates for training and a higher degree of knowledge than his supervisors. Boeing has failed to promote Mr. Williams, and has subjected him to different conditions of employment than his Caucasian coworkers, based on race.

86. William Bell has worked for Boeing for more than 15 years. He has applied for various promotions but was not promoted. Similarly situated Caucasian coworkers were promoted ahead of him, although all had less seniority. In addition, Mr. Bell has been subjected to a hostile work environment, including receiving a picture of a lynching and has been subject to different terms and conditions than his Caucasian coworkers, based on race.

87. Eleanor Staton has worked for Boeing for more than 18 years. She has applied for at least 15 promotions but has been denied all promotions based upon race. Boeing has failed to promote Ms. Staton, and has subjected her to different conditions of employment than her Caucasian coworkers, based on race.

88. Shirley Miller has worked for Boeing for more than 12 years. She applied for Grade 5, 6, and 7 positions, all of which she has been denied on the basis of race. On July 2, 1997 Ms. Miller was offered and accepted an Expediter position as a Grade 3, but when she came back from vacation it was filled by a Caucasian coworker, who had less seniority than Ms. Miller, and the same expediter position was upgraded to Grade 5. When Ms. Miller was

1 finally promoted to Grade 5 she was forced to change shifts and buildings, unlike other
2 Caucasian workers with substantially similar seniority and qualifications. Boeing has failed to
3 promote Ms. Miller, and has subjected her to different conditions of employment than her
4 Caucasian coworkers, based on race.

5 89. Deborah Woods has worked for Boeing for more than 20 years. Ms. Woods
6 submitted at least 10 ERT's (Employee Request for Transfer) in the late 1990's. When she was
7 finally offered a promotion it was with restrictions. Two Caucasians with less seniority and
8 experience were offered a similar promotion with no restrictions. Eventually, the two Caucasian
9 promoted employees were bumped back from grade 8 to grade 6. Boeing has failed to promote
10 Ms. Woods, and has subjected her to different terms and conditions of employment than her
11 Caucasian coworkers, based on race.

12 90. Wendy Kelly has worked for Boeing for more than 20 years. Although she has
13 been a temporary supervisor longer than anyone else in such a position, numerous similarly
14 situated but less qualified Caucasians (*e.g.*, those with a lower score on supervisory placement
15 examinations) were promoted to permanent supervisor. Boeing has failed to promote Ms. Kelly,
16 and has subjected her to different conditions of employment than her Caucasian coworkers,
17 based on race.

18 91. Myron Knight worked for Boeing for 10 years with a 5-year layoff. Although he
19 applied for numerous promotions, he was never promoted, even though other similarly situated
20 Caucasian workers received promotions. Mr. Knight was also subjected to various racial slurs
21 by Caucasian supervisors, which he reported to Boeing management. Boeing, however, took no
22 remedial action against those supervisors. As a result of a physical assault on him by a
23 Caucasian supervisor, Mr. Knight was put on disability leave for a month. No action was taken
24 against the supervisor. Boeing has failed to promote Mr. Knight, and has subjected him to
25 different conditions of employment than his Caucasian coworkers, based on race.
26

1 92. Michael Eckles has worked for Boeing for more than 25 years. When Mr. Eckles
2 applied for promotion to a Grade 10 planning position, Caucasian workers who had been trained
3 by Mr. Eckles were given the positions, although they had less experience. Mr. Eckles applied
4 for two planning jobs in 1997, which he was denied. When a number of Caucasian employees
5 were selected from Mr. Eckles' department and neighboring departments for training to become
6 programmers, Mr. Eckles was excluded, although he was equally or more qualified than these
7 employees. Boeing has failed to promote Mr. Eckles, and has subjected him to different
8 conditions of employment than his Caucasian coworkers, based on race.

9 93. Clarence Thompson has worked for Boeing for more than 20 years. After
10 Mr. Thompson applied for promotion to three lead positions, similarly situated Caucasians with
11 less seniority were given these positions. Mr. Thompson was told by his supervisor that if it
12 were up to the supervisor, Mr. Thompson would never be promoted. Boeing has failed to
13 promote Mr. Thompson, and has subjected him to different conditions of employment than his
14 Caucasian coworkers, based on race.

15 94. Doreen Ferguson has worked for Boeing for more than 20 years. When she
16 applied for a lead position in the maintenance stores, Boeing failed to promote her by simply
17 closing the job title and making a lateral transfer which prevented her from getting the upgrade.
18 The job was eventually offered to a less-qualified Caucasian worker with less seniority.
19 Ms. Ferguson has also been subjected to a racially hostile work environment by her supervisors.
20 Boeing has failed to promote Ms. Ferguson, and has subjected her to different conditions of
21 employment than her Caucasian coworkers, based on race.

22 95. Cynthia Evans has worked for Boeing for 19 years. Ms. Evans was not chosen to
23 fill a vacant, lead position because her Caucasian supervisor did not want Ms. Evans to be a
24 leader although she was the most senior person in her area. Instead, a less senior Caucasian
25 worker was treated as the de facto lead. When the lead position was finally filled, the job was
26 given to a less qualified Caucasian who was designated a Grade 5. It was then decided that the

1 worker's Grade 5 position must be removed because Boeing would then have to give Ms. Evans
2 a Grade 7. Two weeks later, the worker was offered a Grade 5 position in another area. After
3 Ms. Evans complained to Boeing, she was finally promoted to a Grade 7. Soon thereafter,
4 Ms. Evans' position was eliminated by Boeing on a pretextual basis. Ms. Evans has also been
5 subjected to racial slurs and she reported those to Boeing. No corrective action was taken.
6 Ms. Evans has been denied on the job training which she requested, although similarly situated
7 Caucasian workers were given such training. Boeing has failed to promote Ms. Evans, and has
8 subjected her to different conditions of employment than her Caucasian coworkers, based on
9 race.

10 96. Willie Wilson has worked for Boeing for more than 20 years. Mr. Wilson was
11 not promoted because, among other things, positions for which he was qualified were filled by
12 Caucasians before the jobs were posted. Mr. Wilson has applied for a supervisory position,
13 which was filled by a less qualified Caucasian. Boeing has failed to promote Mr. Wilson, and
14 has subjected him to different conditions of employment than his Caucasian coworkers, based on
15 race.

16 97. Mary Dean worked for Boeing for more than 15 years before retiring. Ms. Dean
17 applied for supervisory positions that were given to Caucasians with no prior supervisory skills
18 or experience and with no work experience in the areas in which they were promoted. Boeing
19 failed to promote Ms. Dean, and subjected her to different conditions of employment than her
20 Caucasian coworkers, based on race. Ms. Dean is not being proffered as a class representative.

21 98. Brian Todd has worked for Boeing for more than 15 years. He applied for
22 promotions in the late 1990's. On several occasions, a similarly situated Caucasian worker with
23 less seniority was promoted over Mr. Todd. Mr. Todd has also been subjected to racial
24 harassment, against which Boeing refused to take action. Boeing has failed to promote
25 Mr. Todd, and has subjected him to different conditions of employment than his Caucasian
26 coworkers, based on race.

1 99. Tim Jones has worked for Boeing for several years. Mr. Jones has applied for at
2 least seven promotions, but he has not been promoted, although similarly situated Caucasians
3 with less experience and seniority were promoted over him. In 1998, Mr. Jones was racially
4 harassed, including being called the epithet "nigger," from a Caucasian coworker. Although the
5 coworker was the instigator of the harassment, Mr. Jones received significantly harsher
6 discipline than did his harasser. Boeing has failed to promote Mr. Jones, and has subjected him
7 to different conditions of employment than his Caucasian coworkers, based on race.

8 100. David Brawley has worked for Boeing since 1979. He was laid off for six years
9 and returned to full time employment in 1988. He has been a grade 6 for the past ten years. He
10 has applied for grade 8 positions for several years. Caucasian employees with less experience
11 and seniority were promoted to a grade 8. Mr. Brawley has been denied training opportunities,
12 provided limited assignments, and excluded from promotional opportunities, despite his
13 qualifications as a jig builder. Mr. Brawley has a number of employee certificates. He has filed
14 internal and external EEO charges and as a result has been the subject of retaliation. He has been
15 subjected to different conditions of employment based on race.

16 101. Mara Ferrari has worked for Boeing since 1986. She was a manager (PC7) but
17 was reclassified to a lesser position after her maternity leave. Ms. Ferrari applied for several
18 promotions. She was slated for a promotion, but was later forced into a lesser position. The
19 position was given to a Caucasian female, who was the daughter of the Deputy Vice President of
20 BCAG. This person has less seniority and no experience in the organization. As to several other
21 positions for which Ferrari applied, they were filled by people who did not have to interview or
22 the job was not posted and/or no interview opportunity was given to Ms. Ferrari. Ms. Ferrari has
23 been denied all promotions based upon race. Boeing has failed to promote Ms. Ferrari, and has
24 subjected her to different conditions of employment and retaliation, based on race.

25 102. Rhonda Capps has worked for Boeing since 1976. Ms. Capps is a Senior
26 Engineer. She has applied for promotions that were given to Caucasians who had less

1 qualifications or fewer years of experience. She has been subjected to different terms and
2 conditions of employment than her Caucasian coworkers, based on race.

3 103. Charles Jones was employed by Boeing from 1988 to 1993. He was laid off in
4 1993. He was a Methods Analyst. While employed by Boeing, Mr. Jones sought and was
5 denied several promotions. Since 1993, he has applied for several vacancies with Boeing for
6 which he was fully qualified and wrongfully denied employment. His denial of rehire has been
7 ongoing and continuous; Caucasian employees with less experience and seniority were rehired.
8 Boeing has failed to reinstate Mr. Jones and has subjected him to different conditions of
9 employment, than his Caucasian coworkers, based on race.

10 104. David Roberts has worked for Boeing in Wichita since 1976. He applied for
11 several promotions from 1989 through 1998. He applied for Grade 8 positions. No less than
12 eight Caucasian employees with less experience and seniority were given Grade 8 positions.
13 Mr. Roberts has been subjected to racial slurs by supervisors, he has been retaliated against.
14 Boeing has failed to promote Mr. Roberts, and has subjected him to different conditions of
15 employment than his Caucasian coworkers, based on race.

16 105. Verlene Maholmes has worked for Boeing since 1978. She applied for several
17 promotions. Caucasians with less seniority and experience were given promotions. Boeing has
18 failed to promote Ms. Maholmes, and has subjected her to different conditions of employment
19 than her Caucasian coworkers, based on race.

20 106. Terry Fisher has worked for Boeing since 1978. She is the only African-
21 American welder in the Facilities Department. Over the course of twenty years and still
22 continuing, Ms. Fisher has been denied several promotions that were given to Caucasian
23 coworkers with less seniority and experience. She has been the victim of racial slurs. She has
24 been subjected to a hostile work environment. Ms. Fisher has been subjected to different
25 conditions of employment than her Caucasian coworkers, based on race.
26

1 107. Mark Anderson has worked for Boeing since 1986. He has been denied several
2 promotions that were given to Caucasians with less experience and seniority. He has been
3 subjected to racial harassment and disciplined and suspended for having complained of racial
4 discrimination. Mr. Anderson has been retaliated against and subjected to different conditions of
5 employment than his Caucasian coworkers, based on race.

6 108. Carol Calender has worked for Boeing since 1995. She has applied for promotion
7 and been denied. She trained a Caucasian female who became a full-time employee and was
8 promoted three grades higher than Ms. Calender, even though Ms. Calender had more experience
9 and seniority. Boeing has failed to promote Ms. Calender, and has subjected her to different
10 conditions of employment than her Caucasian coworkers, based on race.

11 109. Michael Marion worked for Boeing from 1984 to 2000. He applied for
12 promotions but was kept in the F-15 Final Assembly Department, while Caucasians with less
13 experience and seniority were promoted. Mr. Marion was denied promotions and was subjected
14 to different conditions of employment based on race.

15 110. Beverly Trotter began working for Boeing in 1974. She was a computer operator
16 before being laid off. She applied for several promotions, but Caucasians with less experience
17 and seniority were given the promotions. She trained several Caucasian managers' sons who
18 were given promotions over her. She has been subjected to different conditions of employment
19 based on race.

20 111. Evalean Moore has worked for Boeing since 1968. Ms. Moore has applied for
21 several promotions. In August of 1998, she applied for a superintendent position for which she
22 has not received a response. Currently, she is a manufacturing engineer. Caucasian employees
23 with less experience and less seniority have been given the positions Ms. Moore applied for.
24 Several of those promoted Caucasian employees were trained by Ms. Moore, who has been
25 subjected to different conditions of employment based on race.
26

1 112. Theodoshia Knauls has worked for Boeing since 1985. She is an accounting
 2 associate. She has applied for several promotions. In most cases, she was not even given an
 3 interview. Caucasians with less experience and seniority are given the promotions. Ms. Knauls
 4 has been subjected to different conditions of employment based on race.

5 113. Ronnie Mitchell has worked for Boeing in Oklahoma since 1984. He is a
 6 machinist. He has applied for at least two promotions. A Caucasian who had severe disciplinary
 7 problems was given the position. Mitchell had at least as much experience and seniority. This
 8 Caucasian employee has now become Mr. Mitchell's supervisor. This same employee has
 9 physically assaulted Mitchell and another African American employee. Mitchell has been
 10 subjected to different conditions of employment based on race.

11 114. Kevin Biglow has worked for Boeing since 1989. He is a System Configuration
 12 Specialist. He has applied for promotions and Caucasians with less experience and seniority
 13 were given the positions. He has been subjected to different conditions of employment based on
 14 race.

15 115. Ralph Wilson has worked for Boeing since 1980. He is a toolmaker who has also
 16 been on assignment in Seattle. Mr. Wilson has applied for promotions. Caucasians with less
 17 experience and seniority have been given the promotions. Wilson has been subjected to different
 18 conditions of employment based on race.

19 FIRST CAUSE OF ACTION

20 VIOLATION OF 42 U.S.C. § 1981

21 116. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

22 117. This Count is brought on behalf of Plaintiffs and all members of the Class.

23 118. Defendants have denied Plaintiffs and all members of the Class the same right to
 24 make and enforce contracts as enjoyed by white citizens employed by Defendants, including
 25 rights involving the making, performance, modification, and termination of contracts with
 26 Defendants and the enjoyment of all benefits, privileges, terms, and conditions of that

1 relationship, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended. The
 2 Class members have suffered both disparate impact and disparate treatment as a result of
 3 Defendants' wrongful conduct.

4 119. In the employment practices described above, Defendants intentionally engaged
 5 in discriminatory practices with malice or with reckless indifference to the federally protected
 6 rights of Plaintiffs and the members of the Class, entitling Plaintiffs and the members of the
 7 Class to punitive damages.

8 120. By reason of the continuous nature of Defendants' discriminatory conduct,
 9 persistent throughout the employment of Plaintiffs and the Class members, Plaintiffs and the
 10 members of the Class are entitled to application of the continuing violations doctrine to all
 11 violations alleged herein.

12 121. As a result of Defendants' conduct alleged in this complaint, Plaintiffs and the
 13 members of the Class have suffered and continue to suffer harm, including but not limited to lost
 14 earnings, lost benefits, and other financial loss, as well as humiliation, embarrassment, emotional
 15 and physical distress, and mental anguish.

16 122. By reason of Defendants' discrimination, Plaintiffs and members of the Class are
 17 entitled to all legal and equitable remedies available for violations of section 1981, as amended,
 18 including an award of punitive damages.

19 123. Attorneys' fees should be awarded under 42 U.S.C. § 1988.

20 SECOND CAUSE OF ACTION

21 RACIAL DISCRIMINATION IN VIOLATION OF TITLE VII 22 OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

23 124. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

24 125. This Count is brought on behalf of Plaintiffs and all members of the Class.

25 126. Defendants have discriminated against Plaintiffs and members of the Class in
 26 violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et seq.*, as amended by the Civil

1 Rights Act of 1991, by subjecting them to different treatment on the basis of their race. The
 2 Class members have suffered both disparate impact and disparate treatment as a result of
 3 Defendant's wrongful conduct.

4 127. In the employment practices described above, Defendants intentionally engaged
 5 in discriminatory practices with malice or with reckless indifference to the federally protected
 6 rights of Plaintiffs and the members of the Class, entitling Plaintiffs and the members of the
 7 Class to punitive damages.

8 128. By reason of the continuous nature of Defendants' discriminatory conduct,
 9 persistent throughout the employment of Plaintiffs and the Class members, Plaintiffs and the
 10 members of the Class are entitled to application of the continuing violations doctrine to all
 11 violations alleged herein.

12 129. As a result of Defendants' conduct alleged in this complaint, Plaintiffs and the
 13 members of the Class have suffered and continue to suffer harm, including but not limited to lost
 14 earnings, lost benefits, and other financial loss, as well as humiliation, embarrassment, emotional
 15 and physical distress, and mental anguish.

16 130. By reason of Defendants' discrimination, Plaintiffs and members of the Class are
 17 entitled to all legal and equitable remedies available for violations of 42 U.S.C. § 2000e *et seq*,
 18 as amended by the Civil Rights Act of 1991, including an award of punitive damages.

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

20 **THIRD CAUSE OF ACTION**

21 **NEGLIGENT MISREPRESENTATION/FRAUD/DETRIMENTAL** 22 **RELIANCE/PROMISSORY ESTOPPEL**

23 132. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

24 133. This Count is brought on behalf of Plaintiffs only, not members of the Class.

25 134. In their affirmative action plans, equal employment policies, and other materials,
 26 Defendants have made oral and written representations of fact to Plaintiffs regarding their

1 treatment of employees, including but not limited to assurances that African-Americans would
2 and will have the same employment opportunities as others.

3 135. These representations were materially false, and were known or should have been
4 known by Defendants to be false.

5 136. Defendants made these misrepresentations intending to induce reliance by
6 Plaintiffs.

7 137. The Plaintiffs reasonably relied on these misrepresentations, and altered their
8 conduct in reliance on those misrepresentations.

9 138. Defendants' conduct has directly and proximately caused Plaintiffs to suffer
10 damages including, but not limited to, lost past and future earnings, lost benefits, emotional and
11 physical distress, and pain and suffering, in amounts to be proven at trial.

12 **FOURTH CAUSE OF ACTION**

13 **BREACH OF CONTRACT**

14 139. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

15 140. This Count is brought on behalf of Plaintiffs only, not members of the Class.

16 141. Defendants have made oral and written representations to Plaintiffs regarding
17 their treatment of employees, including but not limited to assurances that African-Americans
18 would and will have the same employment opportunities as others.

19 142. Defendants' representations constitute binding terms of the contracts of
20 employment with Plaintiffs.

21 143. Defendants have breached their employment contracts with Plaintiffs.

22 144. Defendants' breach of contract has directly and proximately caused Plaintiffs to
23 suffer damages including, but not limited to, lost past and future earnings, lost benefits and
24 consequential damages, in amounts to be proven at trial.

FIFTH CAUSE OF ACTION

BREACH OF CONTRACT

145. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

146. This Count is brought on behalf of Plaintiffs only, not members of the Class.

147. Defendants have entered into numerous contracts with the United States government.

148. Defendants have materially breached their government contracts in discriminating against the Plaintiffs and members of the Class.

149. Plaintiffs are intended beneficiaries of the government contracts with Defendants.

150. Defendants' breach of contract has directly and proximately caused Plaintiffs to suffer damages including, but not limited to, lost past and future earnings, lost benefits and consequential damages.

SIXTH CAUSE OF ACTION

BREACH OF CONTRACT

151. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

152. This Count is brought on behalf of Plaintiffs only, not members of the Class.

153. Defendants' relationships with certain Plaintiffs are controlled by Collective Bargaining Agreements ("CBAs"). These CBAs, or some of them, prohibit discrimination on the basis of race and national origin.

154. Defendants have breached the CBAs with their discriminatory practices. Defendants' breach of the CBAs has directly and proximately caused some Plaintiffs to suffer damages including, but not limited to, lost past and future earnings, lost benefits, emotional and physical distress, and pain and suffering, in amounts to be proven at trial.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Class, pray for relief as follows:

SECOND AMENDED CLASS ACTION COMPLAINT - 29 -
Case No. C98-761P

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1 A. For an order declaring that the practices and policies of Defendants set forth in
2 this complaint violate the rights of Plaintiffs and members of the Class under title VII of the
3 Civil Rights Act of 1964, as amended, and 42 U.S.C. § 1981, as amended;

4 B. For injunctive and equitable relief restraining Defendants from illegally
5 discriminating against Plaintiffs and the Class, providing Plaintiffs and the Class the benefits that
6 they would have received but for the illegal discrimination of the Defendants, and ordering
7 Defendants to restrain from retaliation against Plaintiffs, the members of the Class, or any other
8 person for participating in or supporting this litigation in any manner;

9 C. For judgment against the Defendants and in favor of Plaintiffs and the members
10 of the Class for all equitable monetary relief available under the law, including but not limited to
11 back pay and front pay in amounts to be determined at trial;

12 D. For judgment against the Defendants and in favor of Plaintiffs and the members
13 of the Class for all compensatory and punitive damages available under the law, in amounts to be
14 determined at trial;

15 E. For an award of attorneys' fees and costs to the extent permitted by law;

16 F. For pre-judgment and post-judgment interest;

17 G. For such other and further relief as the Court deems just and equitable; and

18 H. For an order retaining jurisdiction for five years or until such earlier time as the
19 Court is satisfied that Defendants have remedied the practices and policies set forth in this
20 complaint and determined to be in full compliance with the law.
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1 DATED: May 28, 2004

2 s/ Steve W. Berman

3 Steve W. Berman, WSBA No. 12536

4 Craig R. Spiegel, WSBA No. 31955

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