

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

CHARLES BROWN, JEFFREY BURKS,	)	
ANTONIO COLON, JAMES DEMOSS,	)	
JAMESON DIXON, CLARK FAULKNER	)	
KENNETH GEORGE, LEONARD	)	
GREGORY, MARSHUN HILL, CEDRIC	)	
MUSE, LARROY WASHINGTON, DARRELL	)	
WILLIAMS, CHARLES WOODS,	)	Case No.: 08CV5908
MICHAEL WOODS, MACK LEONARD,	)	
on behalf of themselves and similarly	)	Judge Joan B. Gottschall
situated African-American employees,	)	
	)	Magistrate Judge Nan R. Nolan
Plaintiffs,	)	
	)	
v.	)	
	)	
YELLOW TRANSPORTATION, INC., and	)	
YRC INC.,	)	
	)	
Defendants.	)	

CORRECTED FIRST AMENDED COMPLAINT

NATURE OF THE ACTION

This is an action under 42 U.S.C. § 1981 to correct unlawful discrimination on the basis of race and to provide appropriate relief to Charles Brown, Jeffery Burks, Antonio Colon, James DeMoss, Jameson Dixon, Clark Faulkner, Kenneth George, Leonard Gregory, Marshun Hill, Cedric Muse, Laroy Washington, Darrell Williams, Charles Woods, Michael Woods, Mack Leonard and similarly situated African-American former and current employees of YRC, Inc., and Yellow Transportation, Inc. (hereinafter “Plaintiffs”). Plaintiffs allege that YRC, Inc., and Yellow Transportation, Inc. (hereinafter “Defendants”), created a racially hostile work environment by: (1) failing to respond to Plaintiffs’ repeated complaints about nooses hung at the Chicago Ridge facility, failing to investigate, and failing to take disciplinary action against

those individuals who hung the nooses; (2) failing to respond to Plaintiffs' repeated complaints about racially hostile graffiti written on bathroom walls, failing to investigate, and failing to take disciplinary action against those individuals who wrote the graffiti, and (3) failing to respond to Plaintiffs' repeated complaints that coworkers used racial slurs, wore racially hostile clothing, and exposed racially hostile tattoos, failing to investigate, and failing to take disciplinary action against those individuals who used racial slurs, wore racially hostile clothing, and exposed racially hostile tattoos. Plaintiffs also allege that Defendants subjected them to disparate treatment on account of their race by: (1) subjecting Plaintiffs to more stringent disciplinary action than similarly situated Caucasian employees, and (2) promoting Caucasian workers who had worked for less time than Plaintiffs instead of and/or before promoting Plaintiffs. Finally, Plaintiffs allege that Defendants retaliated against Plaintiffs for complaining about the hostile work environment and racially disparate treatment.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331. This action is authorized and instituted pursuant to 42 U.S.C. § 1981.

2. Venue is proper in the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 1391, because the unlawful conduct alleged herein was committed within the boundaries of the Northern District of Illinois.

PARTIES

3. Plaintiff Charles Brown is an adult African-American male and resident of Cook County, Illinois.

4. Plaintiff Jeffery Burks is an adult African-American male and resident of Cook County, Illinois.

5. Plaintiff Antonio Colon is an adult African-American male and resident of Cook County, Illinois.

6. Plaintiff James DeMoss is an adult African-American male and resident of Cook County, Illinois.

7. Plaintiff Jameson Dixon is an adult African-American male and resident of Cook County, Illinois.

8. Plaintiff Clark Faulkner is an adult African-American male and resident of Cook County, Illinois.

9. Plaintiff Kenneth George is an adult African-American male East Baton Rouge Parish, Louisiana.

10. Plaintiff Leonard Gregory is an adult African-American male and resident of Lake County, Indiana.

11. Plaintiff Marshun Hill is an adult African-American male and resident of Cook County, Illinois.

12. Plaintiff Cedric Muse is an adult African-American male and resident of Cook County, Illinois.

13. Plaintiff Laroy Washington is an adult African-American male and resident of Cook County, Illinois.

14. Plaintiff Darrell Williams is an adult African-American male and resident of Cook County, Illinois.

15. Plaintiff Charles Woods is an adult African-American male and resident of Cook County, Illinois.

16. Plaintiff Michael Woods is an adult African-American male and resident of Cook County, Illinois.

17. Plaintiff Mack Leonard is an adult African-American male and resident of Cook County, Illinois.

18. At all relevant times, YRC Worldwide Inc. was the parent company of Roadway Express and Defendant Yellow Transportation.

19. In or about March 2009, YRC Worldwide Inc. integrated Defendant Yellow Transportation and Roadway Express into YRC, Inc.

20. Defendant Yellow Transportation and Roadway Express now operate as Defendant YRC.

21. Defendant YRC is incorporated in Delaware and employs approximately 59,000 people worldwide.

22. Defendant YRC operates 394 terminals across the United States and several terminals within the state of Illinois.

23. At all relevant times, Defendant YRC and Defendant Yellow Transportation were doing business in Illinois and operating the locations at which the alleged discrimination took place.

24. Until December 2009, Defendant YRC and Defendant Yellow Transportation operated a facility at 10301 S. Harlem Ave., Chicago Ridge, Illinois (hereinafter “Chicago Ridge facility”).

25. At all relevant times, Defendant YRC and Defendant Yellow Transportation operated a facility at 2000 Lincoln Highway, Chicago Heights, IL (hereinafter “Chicago Heights facility”).

26. In or about December 2009, Defendant YRC closed the Chicago Ridge facility.

27. In or about December 2009, several named plaintiffs and class members were transferred to the Chicago Heights facility.

CLASS ALLEGATIONS

DEFINITION OF THE CLASS

28. The representative Plaintiffs sue on behalf of themselves and on behalf of all similarly situated African-American employees and former employees employed by Defendants between October 15, 2004, and the present. The Hostile Work Environment Class consists of all current and former African-American employees employed by YRC, Inc., and Yellow Transportation, Inc., at their facility located at 10301 S. Harlem Ave., Chicago Ridge, Illinois and those Chicago Ridge employees transferred to work at the facility located at 2000 Lincoln Highway, Chicago Heights, Illinois.

HOSTILE WORK ENVIRONMENT/RACIAL HARASSMENT

29. Defendants subjected Plaintiffs to a racially hostile work environment by tolerating the repeated hanging of nooses in conspicuous places at the Chicago Ridge facility, including on work equipment, in order to intimidate African-American workers.

30. Defendants subjected Plaintiffs to a racially hostile work environment by tolerating the persistent appearance of written racial slurs in the Chicago Ridge facility including but not limited to, "I hate niggers," "all niggers must die," "fuck all niggers," "rotten nigger," "burn nigger burn," "fag," "white power," and swastikas.

31. Defendants subjected Plaintiffs to a racially hostile work environment by tolerating Caucasian employees' frequent use of racial slurs, including, but not limited to, "nigger" and "mudcat," as well as spoken statements including, but not limited to, "I hate black

people,” “I hate niggers,” and, in reference to hurricane Katrina, “they should have put a cage around New Orleans and put a banana in the cage and let all the niggers drown.”

32. Defendants subjected Plaintiffs to a racially hostile work environment by tolerating the display of racially hostile symbols, including, but not limited to, the Confederate flag and the letters “KKK” on Caucasian employees’ apparel and visible tattoos.

33. Defendants subjected Plaintiffs to a racially hostile work environment by tolerating racially hostile comments made over the radio in the Chicago Ridge facility.

34. Defendants subjected Plaintiffs to a racially hostile work environment at the Chicago Ridge facility by allowing Caucasian supervisors to aggressively scrutinize Plaintiffs’ job performances while not subjecting similarly situated Caucasian employees to similar treatment.

35. Defendants failed to adequately address or respond to Plaintiffs’ complaints of racial harassment and the hostile work environment made to company officials, including, but not limited to, direct supervisors, management, and the Human Resources department.

36. Defendants subjected Plaintiffs to disparate treatment due to their race by failing to document Plaintiffs’ repeated complaints of race discrimination.

DISPARATE TREATMENT DUE TO RACE

37. Defendants subjected Plaintiffs to disparate treatment due to their race by allowing supervisors to assign more strenuous work to Plaintiffs than to similarly situated Caucasian employees.

38. Defendants subjected Plaintiffs to disparate treatment due to their race by promoting similarly situated Caucasian employees, as well as Caucasian employees who had worked for Defendants for a shorter time, instead of and/or before promoting Plaintiffs.

39. Defendants subjected Plaintiffs to disparate treatment due to their race by denying Plaintiffs opportunities that would eventually allow them to be promoted while giving such opportunities to similarly situated Caucasian employees.

40. Defendants subjected Plaintiffs to disparate treatment due to their race by forcing injured Plaintiffs to take shorter sick leaves than similarly situated Caucasian employees.

41. Defendants subjected Plaintiffs to disparate treatment due to their race by disciplining them for infractions for which similarly situated Caucasian employees were not disciplined, including, but not limited to, returning late to work after breaks, talking to each other, and going to the bathroom without asking permission.

42. Defendants subjected Plaintiffs to disparate treatment due to their race by disciplining them without proper investigation, which was different than their treatment of similarly situated Caucasian employees.

43. Defendants subjected Plaintiffs to disparate treatment due to their race by allowing similarly situated Caucasian employees to take more time off work than Plaintiffs.

44. Defendants subjected Plaintiffs to disparate treatment due to their race by giving them less desirable work shifts than similarly situated Caucasian employees, and by denying them the opportunity, afforded to similarly situated Caucasian employees, to choose with which colleagues they worked.

45. Defendants subjected Plaintiffs to disparate treatment due to their race by giving Plaintiffs fewer opportunities to work overtime shifts than similarly situated Caucasian employees.

46. Defendants subjected Plaintiffs to disparate treatment due to their race by assigning them less desirable tasks than similarly situated Caucasian employees, including, but not limited to, requiring them to get in and out of their trucks in inclement weather.

47. Defendants subjected Plaintiffs to disparate treatment due to their race by allowing similarly situated Caucasian employees to participate in a gift-certificate program through which they received thousands of dollars in gift certificates while denying Plaintiffs the same opportunity.

48. Defendants subjected Plaintiffs to disparate treatment due to their race by not giving them the same opportunities as similarly situated Caucasian employees to become drivers and spotters.

RETALIATION DUE TO RACE

49. Defendants retaliated against Plaintiffs for complaining about the discriminatory treatment as described in paragraphs 29 – 48 by, among other things, firing Plaintiffs, disciplining Plaintiffs for ordinarily unenforced rules, cutting off Plaintiffs' medical benefits, and intimidating Plaintiffs while they were working.

CLASS REQUIREMENTS MET

50. The individuals in the Class are so numerous that joinder of all members is impracticable. Plaintiffs estimate that there are more than 300 members of the Class.

51. There are questions of law and fact common to the Class that predominate over questions affecting only individuals. Among these common questions are:

- a. Whether Defendants created a racially hostile work environment or failed to remedy and prevent a racially hostile work environment;

- b. Whether there was a disparity between when full time employment was awarded to Plaintiffs and when it was awarded to similarly situated Caucasian employees;
 - c. Whether there was a disparity between the extent and gravity of discipline imposed upon Plaintiffs and the extent and gravity of discipline imposed upon similarly situated Caucasian employees;
 - d. Whether Defendants failed to address Plaintiffs' complaints about racial harassment and discrimination; and
 - e. Whether Defendants failed to give Plaintiffs benefits such as overtime work, desirable work shifts and inclusion in the gift-certificate program yet granted these benefits to similarly situated Caucasian employees.
52. The claims of the representative parties are typical of the claims of the class.

INDIVIDUAL NAMED PLAINTIFFS' CLAIMS

Charles Brown's Individual Complaints

53. Plaintiff Brown was hired by Defendant Yellow Transportation on July 5, 1991, as a temporary worker. Plaintiff Brown became a full time worker for Defendant Yellow Transportation on September 17, 1991.
54. Prior to December 2009, Plaintiff Brown was employed at the Chicago Ridge facility. He is now employed at the Chicago Heights facility.
55. Plaintiff Brown currently works for Defendants as a dock man; the same position as when he started as a full time employee.
56. During Plaintiff Brown's employment with Defendants, Defendants subjected Plaintiff Brown to discrimination due to his race by creating and tolerating a racially hostile

work environment, by treating Plaintiff Brown less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Brown for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

57. Plaintiff Brown has been subjected to harassment and discrimination based on race. Examples of this harassment and discrimination include:

- a. A picture of a man hanging from a noose hung on Plaintiff Brown's forklift in June 2005;
- b. Multiple nooses hung in the Chicago Ridge facility between May 2005 until May 2008;
- c. Supervisors taking no or minimal action to cover up or erase graffiti of racial slurs and racially hostile phrases in Plaintiff Brown's workplace at the Chicago Ridge facility;
- d. Supervisors ignoring and failing to take investigatory or disciplinary action based on Plaintiff Brown's complaints about the nooses, the racial slurs, and the racially hostile phrases;
- e. Defendants promoting similarly situated Caucasian workers who had worked at Defendants' company for a shorter time than Plaintiff Brown to full-time status before Plaintiff Brown;
- f. Defendants punishing Plaintiff Brown for infractions for which similarly situated Caucasian employees were not disciplined, including going to the bathroom without asking permission;

g. Defendants demanding that Plaintiff Brown return to work after a break or while talking to a coworker while not demanding that similarly situated Caucasian employees do the same; and

h. Plaintiff Brown's supervisor, Bob Zabonski, disciplining Plaintiff Brown for reading a newspaper in the bathroom without investigating whether Plaintiff Brown was actually reading a newspaper in the bathroom.

58. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment during their employment with Defendants due to their race.

59. In April 2007, Defendant Yellow Transportation retaliated against Plaintiff Brown by denying Plaintiff Brown benefits under the Family and Medical Leave Act (FMLA) when Plaintiff Brown complained about the appearance of nooses in his workplace at the Chicago Ridge facility.

60. During Plaintiff Brown's employment, Defendants were aware of Plaintiff Brown's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Jeffery Burks's Individual Claims

61. Plaintiff Burks started working as a temporary employee for Defendant Yellow Transportation in October 1995. He was hired as a full-time dock man on February 13, 1996.

62. Plaintiff Burks is currently laid off from Defendants.

63. During Plaintiff Burks's employment with Defendants, Defendants subjected Plaintiff Burks to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Burks less favorably than similarly situated Caucasian

employees, and by retaliating against Plaintiff Burks for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

64. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants due to their race.

65. During Plaintiff Burks's employment, Defendants were aware of Plaintiff Burks's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Antonio Colon's Individual Claims

66. Plaintiff Colon started working as a temporary employee for Defendant Yellow Transportation in 2000. He became a full-time employee approximately two years later, in 2002.

67. Plaintiff Colon is currently laid off from Defendants.

68. During Plaintiff Colon's employment with Defendants, Defendants subjected Plaintiff Colon to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Colon less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Colon for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48 .

69. During his employment with Defendants, Plaintiff Colon was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being subjected to disparate treatment in the enforcement of work rules and policies, such as the rule against standing around and talking after breaks are over, the requirement that workers alert a supervisor when they intend to leave to use the bathroom, and the attendance policy;

- b. Being assigned less desirable shifts and tasks than similarly situated Caucasian employees;
- c. Having to wait a longer time than similarly qualified Caucasian workers to acquire the status of full-time employee; and
- d. Being called a “mutt” by a coworker in reference to his being half Puerto Rican and half African-American.

70. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

71. During Plaintiff Colon’s employment, Defendants were aware of Plaintiff Colon’s complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

James DeMoss’s Individual Claims

72. Plaintiff DeMoss was hired by Defendant Yellow Transportation in September 1991 as a temporary worker. He became a full time worker approximately one year later, in September 1992.

73. Prior to December 2009, Plaintiff DeMoss was employed at the Chicago Ridge facility. He is now employed at the Chicago Heights facility.

74. Plaintiff DeMoss currently works for Defendants as a dock man/spotter, but is on soft layoff status.

75. During Plaintiff DeMoss’s employment with Defendants, Defendants have subjected Plaintiff DeMoss to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff DeMoss less favorably than similarly situated

Caucasian employees, and by retaliating against Plaintiff DeMoss for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

76. During his employment with Defendants, Plaintiff DeMoss was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being denied promotion to full-time status until one day after a similarly situated Caucasian worker was promoted, which resulted in the Caucasian worker receiving seniority status, better work schedules, overtime, and days off;
- b. Being denied promotion by supervisors who subjected Plaintiff DeMoss to more stringent testing requirements than similarly situated Caucasian employees when he applied to be a driver;
- c. Receiving less desirable work schedules and more labor-intensive loads than similarly situated Caucasian dock workers; and
- d. Defendants not responding to Plaintiff DeMoss's complaints about racial slurs being used at the Chicago Ridge facility, including, but not limited to, a Caucasian employee making racial comments over the radio system.

77. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

78. During Plaintiff DeMoss's employment, Defendants were aware of Plaintiff DeMoss's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Jameson Dixon's Individual Claims

79. Plaintiff Dixon began working for Defendant Yellow Transportation in April 1999 as a temporary worker and became a full time worker in August 1999.

80. Plaintiff Dixon is currently laid off from Defendants.

81. During Plaintiff Dixon's employment with Defendants, Defendants subjected Plaintiff Dixon to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Dixon less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Dixon for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

82. During his employment with Defendants, Plaintiff Dixon was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being ordered back to work after a break when similarly situated Caucasian employees were not ordered back to work; and
- b. Having his complaints about racially charged graffiti and comments ignored by company supervisors.

83. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants.

84. During Plaintiff Dixon's employment with Defendants, he was retaliated against for complaining about the racially hostile work environment when a supervisor denied him permission to work with certain coworkers for the stated reason that Plaintiff Dixon had filed a complaint with the Equal Employment Opportunity Commission (EEOC).

85. During Plaintiff Dixon's employment, Defendants were aware of Plaintiff Dixon's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Clark Faulkner's Individual Claims

86. Plaintiff Faulkner began working for Defendant Yellow Transportation in June 1997 as a temporary worker and became a full time worker in December 1997.

87. Plaintiff Faulkner is currently laid off from Defendants.

88. During Plaintiff Faulkner's employment with Defendants, Defendants subjected Plaintiff Faulkner to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Faulkner less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Faulkner for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

89. During his employment with Defendants, Plaintiff Faulkner was subject to discrimination due to his race. Examples of this discrimination include:

- a. Being denied promotion to full-time status until shortly after a similarly situated Caucasian worker was promoted, which resulted in the Caucasian worker receiving seniority status, better work schedules, overtime, and days off;
- b. Demeaning treatment including, but not limited to, being ordered to pick up a piece of wood by a Caucasian coworker while the coworker stood over the wood;
- c. Being denied promotion by being subjected to more stringent requirements than similarly situated Caucasian workers when Plaintiff Faulkner applied to be a driver; and

d. Being subjected to more stringent disciplinary action than similarly situated Caucasian employees, and having company rules applied to him in an arbitrary way.

90. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

91. During his employment with Defendants, Plaintiff Faulkner was written up for complaining about the hostile work environment.

92. During Plaintiff Faulkner's employment, Defendants were aware of Plaintiff Faulkner's complaints as stated above, but failed to take sufficient corrective action or prevent further discrimination. Specific examples of Defendant's failure to respond to Plaintiff Faulkner's complaints include but are not limited to:

a. In June 2008, "KKK" was written on the wall of the work bathroom.

Although Plaintiff Faulkner complained to multiple supervisors, the writing was left on the wall for at least one month.

b. In July 2008, Plaintiff Faulkner asked a coworker not to wear a shirt of a tattoo of a confederate flag he had on his arm. When the coworker ignored the request, Plaintiff Faulkner complained to a supervisor who also ignored the request. The coworker continued to wear clothes that revealed the tattoo in violation of work rules but was not disciplined for this action.

c. After complaining about confederate flags being worn at the Chicago Ridge facility, coworkers began to tamper with Plaintiff Faulkner's locker.

Although Plaintiff Faulkner complained about the tampering to supervisors, no investigation was performed or disciplinary action taken.

93. During Plaintiff Faulkner's employment, Defendants were aware of Plaintiff Faulkner's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Kenneth George's Individual Claims

94. Plaintiff George began working for Defendant Yellow Transportation in June 2000 as a temporary worker and became a full time worker in June 2008.

95. Plaintiff George's employment relationship was terminated by Defendant YRC in 2008.

96. During Plaintiff George's employment with Defendants, Defendants subjected Plaintiff George to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff George less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff George for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

97. During his employment with Defendants, Plaintiff George was subject to discrimination due to his race. Examples of this discrimination include:

- a. Being promoted to full time status after similarly situated Caucasian employees, thus giving seniority status to Caucasian employees;
- b. Being subjected to more stringent disciplinary action than similarly situated Caucasian employees, and having company rules applied to him in an arbitrary way;

- c. Demeaning treatment by coworkers such as graffiti written on the wall using Plaintiff George's name along with racial slurs;
- d. Being denied access to workers' compensation funds when Plaintiff George was injured at work while similarly situated Caucasian employees were not denied access;
- e. Being denied the opportunity to work "light duty" after being injured on the job, while similarly situated Caucasian employees were not subject to such treatment.

98. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants.

99. During Plaintiff George's employment, Defendants were aware of Plaintiff George's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Leonard Gregory's Individual Claims

100. Plaintiff Gregory was hired as a supervisor for Defendant Yellow Transportation on December 6, 1994. He was promoted to the position of Systems Operations Manager in 1997 and to the position of General Operations Manager in February 2004. Plaintiff Gregory stepped down from his position as General Operations Manager to the position of supervisor in March 2007 because he feared he would be discharged.

101. Plaintiff Gregory is currently on leave because of a work injury.

102. During Plaintiff Gregory's employment with Defendants, Defendants subjected Plaintiff Gregory to discrimination due to his race by creating and tolerating a racially hostile

work environment, by treating Plaintiff Gregory less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Gregory for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

103. During his employment with Defendants, Plaintiff Gregory was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Insubordination by Caucasian employees that Plaintiff Gregory supervised;
- b. A false accusation by a Caucasian employee that led to Plaintiff Gregory's arrest;
- c. Plaintiff Gregory's tires being slashed immediately after a Caucasian employee threatened him;
- d. Racially charged phrases spoken at the Chicago Ridge facility and written on workroom walls such as "Leonard is a nigger lover," "I think I'm going to take Ron Johnson to meet some of my friends at the next KKK rally, burn nigger burn, don't forget Leonard," "the white race would be perfect without the black race," and "[being Black is] worse if you're a Jehovah's Witness;" and
- e. Being constructively demoted from the position of General Operations Manager to the position of supervisor by repeated threats of termination after Plaintiff Gregory took steps as a supervisor to address complaints about the hostile work environment.

104. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

105. During Plaintiff Gregory's employment, Defendants were aware of Plaintiff Gregory's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Marshun Hill's Individual Claims

106. Plaintiff Hill started working as a temporary employee for Defendant Yellow Transportation in June 1991 and was hired as a full-time employee three months later.

107. Prior to December 2009, Plaintiff Brown was employed at the Chicago Ridge facility. He is now employed at the Chicago Heights facility.

108. Plaintiff Hill currently works for Defendants as a dock man; the same position as when he started as a full time employee.

109. During Plaintiff Hill's employment with Defendants, Defendants subjected Plaintiff Hill to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Hill less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Hill for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

110. During his employment with Defendants, Plaintiff Hill was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being denied promotion to full-time status until shortly after a similarly situated Caucasian worker was promoted, which resulted in the Caucasian worker receiving seniority status, better work schedules, overtime, and days off;
- b. Being subjected to disparate treatment with regards to the rule against standing around talking after breaks are over; and

- c. Being subjected to disparate treatment by being punished for minor offenses while Caucasians were not punished for comparatively greater offenses.

111. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

112. During Plaintiff Hill's employment, Defendants were aware of Plaintiff Hill's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Cedric Muse's Individual Claims

113. Plaintiff Muse started working for Defendant Yellow Transportation in September 1990 as a temporary worker and became a full time employee in January 1991.

114. Plaintiff Muse is currently laid off from Defendants.

115. Plaintiff Muse was a union steward from 1997 until 1999. During this time, Plaintiff Muse was told by Supervisor Tom Hartman that he was subjected to different rules as a Union Steward because he was black. Plaintiff Muse was the only African-American Union Steward at that time.

116. During Plaintiff Muse's employment with Defendants, Defendants subjected Plaintiff Muse to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Muse less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Muse for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

117. Since Plaintiff Muse began working for Defendants he has been subjected to discrimination due to his race. Examples of this discrimination include but are not limited to:

- a. Being assigned heavier loads than Caucasian workers;
- b. Being assigned to physical labor while Caucasian workers were assigned to driving trucks. Plaintiff Muse was certified to drive trucks at this time; and
- c. Observing writing on the bathroom wall that targeted him while he was a union steward such as “Muse represents the niggers.”

118. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

119. Plaintiff Muse complained about the hostile work environment to supervisors whose reaction was to tell Plaintiff Muse that they would get back to him about it. Defendants’ supervisors would not report to Plaintiff Muse that they had taken any action to remedy the hostile environment.

120. During Plaintiff Muse’s employment, Defendants were aware of Plaintiff Muse’s complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Laroy Washington’s Individual Claims

121. Plaintiff Washington began working for Defendant Yellow Transportation in November 1996 and was hired as a full-time dockworker in May 1997.

122. Plaintiff Washington is currently laid off from Defendants.

123. During Plaintiff Washington’s employment with Defendants, Defendants subjected Plaintiff Washington to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Washington less favorably than similarly

situated Caucasian employees, and by retaliating against Plaintiff Washington for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

124. During his employment with Defendants, Plaintiff Washington was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being denied promotion to full-time status until shortly after a similarly situated Caucasian worker was promoted, which resulted in the Caucasian worker receiving seniority status, better work schedules, overtime, and days off; and
- b. Being subjected to disparate treatment with regards to the rule against standing around talking after breaks are over.

125. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

126. During Plaintiff Washington's employment, Defendants were aware of Plaintiff Washington's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Darryl Williams's Individual Claims

127. Plaintiff Williams started working as a temporary employee for Defendant Yellow Transportation in August 2001. He became a full-time dock man on June 25, 2002.

128. Plaintiff Williams is currently laid off from Defendants.

129. During Plaintiff Williams's employment with Defendants, Defendants subjected Plaintiff Williams to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Williams less favorably than similarly situated Caucasian

employees, and by retaliating against Plaintiff Williams for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

130. During his employment with Defendants, Plaintiff Williams was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being subjected to disparate treatment in the enforcement of work rules and policies when a supervisor walked past four Caucasian men violating the rule against talking in order to reprimand Plaintiff Williams for violating the rule against using a cell phone; and
- b. Being subjected to disparate treatment on account of his race with regard to work assignments and difficulty of work.

131. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

132. Plaintiff Williams was retaliated against for complaining about discrimination by getting more difficult assignments or by getting no work at all.

133. During Plaintiff Williams's employment, Defendants were aware of Plaintiff Williams's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Charles Woods's Individual Claims

134. Plaintiff C. Woods started working as a temporary employee for Defendant Yellow Transportation in July 2002 and became a full time employee in August 2003.

135. Plaintiff C. Woods is currently laid off from Defendants.

136. During Plaintiff C. Woods's employment with Defendants, Defendants subjected Plaintiff Woods to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff C. Woods less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Woods for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

137. During his employment with Defendants, Plaintiff C. Woods has been subject to discrimination on account of his race. Examples of this discrimination include:

- a. Being subject to more stringent requirements than similarly situated Caucasian employees to gain full time status;
- b. Being given a more difficult driving test than similarly situated Caucasian employees when he applied to be a driver for Defendants;
- c. Overhearing his supervisor tell his coworkers that he did not like African-Americans and Mexicans; and
- d. Being disciplined for actions for which similarly situated Caucasian employees were not disciplined, including taking breaks at prohibited times.

138. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants.

139. During Plaintiff C. Woods's employment, Defendants were aware of Plaintiff Woods's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Michael Woods's Individual Claims

140. Plaintiff M. Woods started working as a temporary employee for Defendant Yellow Transportation in mid-2001. He became a full-time employee on June 25, 2002.

141. Plaintiff M. Woods's employment relationship was terminated by Defendant YRC in 2009.

142. During Plaintiff M. Woods's employment with Defendants, Defendants subjected Plaintiff Woods to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff M. Woods less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff M. Woods for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

143. During his employment with Defendants, Plaintiff M. Woods was subjected to discrimination due to his race. Examples of this discrimination include:

- a. Being subjected to disparate treatment in the enforcement of work rules and policies, such as the rule against standing around talking after breaks are over and the requirement that workers alert a supervisor when they intend to leave to use the bathroom;
- b. Being denied promotion to full-time status until shortly after a similarly situated Caucasian worker was promoted, which resulted in the Caucasian worker receiving seniority status, better work schedules, overtime, and days off; and
- c. Being subjected to a hostile work environment by being specifically named in statements appearing on bathroom walls, such as, "Mike is a rotten nigger," "Woods you're a dead mother fucker," "Michael Woods your dead," and "Mike isn't black."

144. Plaintiff M. Woods was retaliated against for complaining about discrimination.

Examples of this retaliation include but are not limited to:

- a. Having axle grease poured on the seat of his forklift after he complained about the hostile work environment;
- b. Being punished for actions that did not violate any rule;
- c. Being punished for violating rules that were rarely or never enforced;
- d. Receiving unusually harsh punishments for violations that typically warranted minimal reprimand;
- e. Being temporarily terminated for reasons his supervisors refused to state; and
- f. Plaintiff M. Woods was labeled as a “trouble-maker” by Defendants’ supervisors for complaining about race discrimination. Plaintiff M. Woods was watched and disciplined more strictly than he was before complaining.

145. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment in the terms and conditions of their employment with Defendants, due to their race.

146. During Plaintiff M. Woods’s employment, Defendants were aware of Plaintiff M. Woods’s complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

Mack Leonard’s Individual Claims

147. Plaintiff Leonard was hired by Defendant Yellow Transportation as a janitor in July 2006 as a temporary worker. Plaintiff Leonard became a permanent employee approximately 90 days after his hiring date.

148. Plaintiff Leonard is currently laid off from Defendants.

149. During Plaintiff Leonard's employment with Defendants, Defendants subjected Plaintiff Leonard to discrimination due to his race by creating and tolerating a racially hostile work environment, by treating Plaintiff Leonard less favorably than similarly situated Caucasian employees, and by retaliating against Plaintiff Leonard for complaining about racial discrimination as alleged with regards to the entire class in paragraphs 29 – 48.

150. During Plaintiff Leonard's employment with Defendants, Plaintiff Leonard was the subject of harassment and discrimination based on race. Examples of this harassment and discrimination include:

- a. Defendants demanding that Plaintiff Leonard clean up graffiti stating "Kill Nigger" covered in feces, although the graffiti had been there for at least two days prior to Plaintiff Leonard's arrival at work and other Caucasian janitors had been present and available to clean up the graffiti;
- b. Defendants requesting that Plaintiff Leonard give up a preferred work shift to a Caucasian staffer with less seniority;
- c. Multiple racial slurs and racially hostile phrases in Plaintiff Leonard's workplace at the Chicago Ridge facility;
- d. Supervisors gave Leonard more difficult work than similarly situated Caucasian employees;
- e. Supervisors ignoring or failing to take investigatory or disciplinary action based on Plaintiff Leonard's complaints about racial slurs, racially hostile phrases, and graffiti; and

f. Defendants demanding that Plaintiff Leonard return to work after a break or while talking to a coworker while not demanding that similarly situated Caucasian employees do the same.

151. Similarly situated Caucasian employees were not subjected to such discrimination and received more favorable treatment during their employment with Defendants due to their race.

152. During Plaintiff Leonard's employment, Defendants were aware of Plaintiff Leonard's complaints as enumerated above, but failed to take corrective action or prevent further discrimination.

COUNT I: VIOLATIONS OF 42 U.S.C. § 1981

153. Plaintiffs repeat and re-allege each allegation above as if set forth herein in full.

154. Defendants has subjected its African-American employees to different terms and conditions of employment than similarly situated Caucasian employees and has intentionally discriminated against Plaintiffs and the Class in violation of 42 U.S.C. § 1981 by: (1) allowing a racially hostile work environment to exist by not taking sufficient actions to stop nooses from being hung at the Chicago Ridge facility, racial slurs and racially hostile statements from being written and spoken, racially hostile symbols from being displayed and racial employees from wearing racially charged clothing and tattoos, racial slurs and racially hostile language being written on workplace walls at the Chicago Ridge and Chicago Heights facilities, and nooses being hung at the Chicago Ridge facility to intimidate African-American employees; (2) applying promotion practices which give seniority to Caucasian workers that have worked for the Defendants for either less or equal time than similarly situated African-American employees; (3) applying disciplinary actions in a discriminatory fashion against African-Americans; (4)

refusing to respond to or not taking sufficient actions about complaints from African-American employees about the hostile work environment; (5) retaliating against African-American employees for complaining about the racially hostile work environment.

PRAYER FOR RELIEF

155. WHEREFORE, Plaintiffs and the Class respectfully request that this Court grant the following relief:

- a. Certification of a Class consisting of all African-American employees employed at Defendants' Chicago Ridge facility from October 15, 2004, to December 2009 including those African-American employees who were transferred from the Chicago Ridge facility to work at the Chicago Heights facility;
- b. Enter judgment that Defendants' acts and practices as set forth herein are in violation of the laws of the United States;
- c. Enter preliminary and permanent relief enjoining the discriminatory conduct and requiring Defendants to take steps to end its discriminatory practices and prevent current and future harm to Plaintiffs and the Class, including, but not limited to:
 - i. Revised procedures which would require that Defendants' managers use fair and objective criteria when promoting employees;
 - ii. Revised procedures which would require that Defendants' disciplinary procedures to be applied in a non-discriminatory fashion;
 - iii. Implementation of a meaningful system of oversight to ensure that Defendants' managers are using objective criteria to assign overtime,

shift schedules, job assignments, and benefits such as hiring and promotions; and

iv. Implementation of meaningful procedures to ensure racial harassment at the Chicago Heights facility is eliminated.

v. Implementation of meaningful procedures to ensure that racial discrimination at the Chicago Ridge facility is eliminated if it is reopened.

d. Award Plaintiffs and the Class lost wages, including back pay for failure to promote, and any lost benefits that would otherwise have been available to the Plaintiffs and Class without the discrimination;

e. Award Plaintiffs and the Class compensatory and punitive damages;

f. Award reinstatement to class members who resigned due to race discrimination;

g. Award Plaintiffs the costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees and costs; and

h. Grant Plaintiffs and the Class such other and further relief as this Court finds necessary and proper.

JURY DEMAND

156. Plaintiffs demand a trial by jury on all issues of facts and damages in this action.

Respectfully Submitted,

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