

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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DAVID ALVAREZ, FRANKLIN AULD,
JAMES BARNES, KISHIA BRIGHT,
RAMON HERNANDEZ, SEGUNDA LOPEZ,
MICHAEL MCCRAE, GUILLERMO NUNEZ,
ISAAC OLABANJO, LUIS RODRIGUEZ,
JOSE SANCHEZ, JOHNNY SMALL,
JOHN TINDAL, DAVE VILCEUS,
SANDRA WALKER, and DIANE WORRELL,

Index No. 88/2012

COMPLAINT

Plaintiffs,

-against-

COCA-COLA REFRESHMENTS USA, INC.

Defendant.

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Plaintiffs, by and through their attorneys, The Law Office of Steven A. Morelli,
P.C., respectfully allege, upon knowledge as to themselves and their own actions, and
upon information and belief as to all other matters, as follows:

PRELIMINARY STATEMENT

1. Coca-Cola may be an enjoyable refreshment for most, but its black and Hispanic workers produce Coca-Cola's beverages in a cesspool of racial discrimination. There is an endemic culture of racism at Coca-Cola that runs through its management and supervisors at its New York bottling plants in Elmsford and Maspeth. The 16 Plaintiffs herein have suffered from the worst of its ills in terms of biased work assignments and allotment of hours, unfair discipline and retaliation, and a caustic work environment
2. Black and Hispanic production workers at Coca-Cola are typically assigned to the most undesirable and physically dangerous positions, and to tasks that are outside

- of their job descriptions. Meanwhile, the managers contravene the established seniority system by giving better jobs and more overtime hours to white workers with less seniority than minority workers. As several of the Plaintiffs have found, opportunities for advancement and promotion within the company are routinely biased against minority workers. Finally, the truck drivers among the Plaintiffs have had their hours unfairly limited and prevented from working overtime, while white drivers do not have to face these problems.
3. Those among the Plaintiffs who have dared to speak up about the discrimination to managers or human resources have not only found no resolution to their concerns, but instead have faced swift retaliation from the white managers. This retaliation has come in the form of unwarranted scrutiny and unfair disciplinary actions, up to the point of suspension and termination for some of the Plaintiffs.
 4. The minority workers at Coca-Cola face an atmosphere of casual racism from co-workers, which not only goes unpunished but is often perpetrated by white supervisors and managers. The Plaintiffs frequently witness overt displays of racism in the plant in the form of offensive remarks and ridicule, while suffering from racially charged harassment from supervisors. This hostile work environment has caused many of the Plaintiffs significant emotional harm, to the point where they must seek therapy to deal with the stress from work.
 5. As described herein in each of the Plaintiffs' statements, Defendant discriminated against Plaintiffs on the basis of their African-American or Hispanic race, in violation of New York State Executive Law §§ 290 et seq. and Title 8 of the N.Y.C. Administrative Code.

JURISDICTION AND VENUE

6. Jurisdiction is proper pursuant to CPLR § 301. Venue is proper pursuant to CPLR § 503.

PARTIES

7. Plaintiff DAVID ALVAREZ is a 23-year old Hispanic American male who is a resident and domiciliary of Putnam County, NY.
8. Plaintiff FRANKLIN AULD is a 42-year old black American male who is a resident and domiciliary of Nassau County, NY.
9. Plaintiff JAMES BARNES is a 50-year old black American male who is a resident and domiciliary of Queens County, NY.
10. Plaintiff KISHIA BRIGHT is a 34-year old black American female who is a resident and domiciliary of Nassau County, NY.
11. Plaintiff RAMON HERNANDEZ is a 41-year old Hispanic American male who is a resident and domiciliary of Orange County, NY.
12. Plaintiff SEGUNDA LOPEZ is a 47-year old Hispanic American female who is a resident and domiciliary of Putnam County, NY.
13. Plaintiff MICHAEL MCRAE is a 51-year old black American male who is a resident and domiciliary of Kings County, NY.
14. Plaintiff GUILLERMO NUNEZ is a 33-year old Hispanic American male who is a resident and domiciliary of Bronx County, NY.
15. Plaintiff ISAAC OLABANJO is a 53-year old black Nigerian-American male who is a resident and domiciliary of Queens County, NY.

16. Plaintiff LUIS RODRIGUEZ is a 49-year old Hispanic American male who is a resident and domiciliary of New York County, NY.
17. Plaintiff JOSE SANCHEZ is a 32-year old Hispanic American male who is a resident and domiciliary of Bronx County, NY.
18. Plaintiff JOHNNY SMALL is a 57-year old black American male who is a resident and domiciliary of Bronx County, NY.
19. Plaintiff JOHN TINDAL is a 50-year-old black American male who is a resident and domiciliary of Dutchess County, NY.
20. Plaintiff DAVE VILCEUS is a 53-year old black Haitian-American male who is a resident and domiciliary of Nassau County, NY.
21. Plaintiff SANDRA WALKER is a 45-year old black American female who is a resident and domiciliary of Queens County, NY.
22. Plaintiff DIANE WORRELL is a 57-year old black American female who is a resident and domiciliary of Queens County, NY.
23. At all times relevant to this complaint, the above plaintiffs were “employees” of Defendant Coca-Cola, as that term is defined by New York State Human Rights Law and New York City Human Rights Law.
24. Defendant COCA-COLA ENTERPRISES, INC., is a manufacturer, retailer, and distributor of non-alcoholic beverages and products, with branches located in New York State. At all times relevant to this complaint, Coca-Cola was Plaintiffs’ “employer,” as that term is defined by New York State Human Rights Law and New York City Human Rights Law.

FACTUAL ALLEGATIONS

Ramon Hernandez

25. Mr. Hernandez, a Hispanic American, began working at Coca-Cola as a merchandiser in April 1995. He changed positions to become a haulage driver in or around 1999, which was the position he held until his termination in June 2009. Through his years of employment, Mr. Hernandez gained a reputation for being hard-working and error-free, and was considered one of the top drivers at the company. This is evidenced in his being selected to perform dispatcher duties and the duties of his supervisor, Gambino Roche, when he went on vacation.
26. Mr. Hernandez's hard work, however, did not prevent the discriminatory treatment he faced in the form of unfavorable assignment of work and racially charged harassment during his employment, and in the flagrantly discriminatory pretext for his termination. Because he dared to speak up for his rights and the rights of other minority co-workers, Mr. Hernandez was targeted by the white managers and eventually fired under highly questionable circumstances.
27. Throughout his employment as a driver, Mr. Hernandez and other Hispanic and black drivers faced discrimination in restrictions on the number of hours they could work, while white drivers were allowed to work as many hours as they wished. Numerous times, Mr. Hernandez was recalled to the station before his 8th hour of work so that he would not receive overtime, while white drivers who started earlier in the day were not recalled. This disparate treatment significantly reduced Mr. Hernandez's driving hours and hence earnings compared to those of white drivers.

28. Mr. Hernandez discovered that much of the haulage work that was supposed to go to the minority drivers was instead going to outside contractors, even though this was against their union contract. Apparently, the driving hours that were outsourced to outside contractors would be taken from the assignments of the minority drivers and not the white drivers. This compounded the existing discrimination in how early the drivers were recalled after their shifts started, and widened the gap between the incomes of minority and white drivers. As an example, Mr. Hernandez found out that a white driver, Paul Mongelli, made significantly more per year than several black drivers who had more years of seniority.
29. Discriminatory treatment also occurred in the picks of vacation days, which was supposed to go by the seniority system in accordance with the union contract. White drivers were favored since management disregarded the method of picking vacation days stipulated by the contract. This disregard of the rules caused minority drivers to be marginalized when it came to vacation picks, since it reduced the number of premium vacation weeks available to them. In 2008, Mr. Hernandez, speaking on behalf of other minority drivers, complained to Human Resources about this disparate treatment. The head of Human Resources, Cathy Clavel, at first said she would try to change the system, but a day later, after she spoke to white manager Joe Aemesigeo, she changed her mind. No changes were made in how vacation days were picked, but instead Mr. Hernandez became a target for retaliation.

30. Through his years of employment, Mr. Hernandez also faced an environment of casual racism from white supervisors. In 2006, white supervisor Larry Moloney would frequently approach Mr. Hernandez and other Hispanic drivers and ask in Spanish, “eres maricon?” which means “are you a homosexual?” Mr. Hernandez was offended by this crude and racist attempt at humor. Mr. Hernandez also observed Mr. Moloney frequently call a black driver, Louis Mack, a “pimp,” and once witnessed Mr. Moloney say to Mr. Mack, “come here, it’s been a long time since I kicked a black ass.” To Mr. Hernandez’s knowledge, Mr. Moloney was never reprimanded for his racist language.
31. Mr. Hernandez’s white manager from 2007 onward, Mr. Aemesigeo, also harassed and attempted to intimidate minority workers. He was frequently violent around black or Hispanic workers, often throwing or kicking objects, but did not behave in this aggressive way around or towards white workers.
32. In the summer of 2008, the events that would lead to Mr. Hernandez’s termination began with another outburst of racist language. A white co-worker, Chris Suarez, called Mr. Hernandez a “nigger,” and Mr. Hernandez found this offensive. He reported this to his manager, Mr. Aemesigeo, who instructed Mr. Hernandez to demand an apology from Mr. Suarez, and that if he refused to apologize Mr. Aemesigeo would handle it. Later on, Mr. Hernandez was scheduled to speak to Human Resources about the incident.
33. Mr. Aemesigeo, who had a close relationship with Mr. Suarez, tried to coach Mr. Hernandez to say to Human Resources that the name-calling was just a case of joking around with “street language.” He wanted Mr. Hernandez to lie and say

that he found the name-calling acceptable. But Mr. Hernandez instead told the truth to Human Resources, that he was offended by the use of the word. This resulted in Mr. Suarez's termination. From this incident onward, Mr. Aemesigeo and other white managers became increasingly negative towards Mr. Hernandez, and began to look for ways to retaliate against him.

34. In June 2009, the white managers found such a way to retaliate against Mr. Hernandez. Rallying the other minority drivers, Mr. Hernandez had helped to organize the first election of a union shop steward in 35 years. The previously appointed shop steward lost his position, and a new shop steward, Tom Staropoli, was elected on June 10, 2009. Mr. Staropoli appointed Mr. Hernandez as the alternate shop steward, which meant that Mr. Hernandez would serve as shop steward whenever Mr. Staropoli was not available.

35. The next day, June 11, Mr. Staropoli was not in and Mr. Hernandez was approached by another employee, Renan Majano, who had a grievance about being sent home while outside contractors took his driving routes. As alternate shop steward, Mr. Hernandez had the right to investigate this matter. No previous investigation of this type had ever been done before, but Mr. Hernandez knew that he needed a copy of the dispatch logs showing when drivers were assigned to various routes. The fact that no established procedures were in place for such an investigation was corroborated by Mr. Roche, Human Resources Manager Cathy Clavel, and union delegate Ed Webber.

36. Mr. Hernandez went to the dispatch office and asked the white secretary, Susan Ramos, if he could use her terminal, which was already logged in. She gave him

permission, and stood behind him as he examined and printed the dispatch log records. After a few minutes, Ms. Ramos stepped out of the office, and after being called outside by Paul Mongelli, came back in and told Mr. Hernandez he did not have permission to use the computer. Mr. Hernandez immediately stopped using it and left the dispatch office. Renan Majano, the co-worker Mr. Hernandez was trying to help, witnessed the entire incident.

37. This incident of Mr. Hernandez printing dispatch logs, despite its minor importance and his legitimate goals, became the pretext for Mr. Hernandez's termination. Later on June 11, Mr. Staropoli told Mr. Hernandez that he was in trouble for printing the logs, but that branch manager David Prestepino would not terminate him if he did not do it again. However, the next day, Mr. Hernandez was informed that he would be suspended pending investigation.

38. In the ensuing weeks, a Human Resources investigation was done, and Mr. Hernandez was terminated effective June 24, 2009. Mr. Hernandez attended an arbitration hearing on his discharge on July 28. Critically, in her testimony to the arbitrator, the dispatcher lied about what had happened in the dispatch office. Instead of her giving permission to Mr. Hernandez to use the computer as had actually happened, she now alleged that Mr. Hernandez had broken into the office while she was on break, and accessed the computer himself by somehow cracking her password. Mr. Hernandez believes she gave this false testimony under pressure from the white managers, since her job was also at risk at the time. Believing Ms. Ramos's testimony, the arbitrator sided with Coca-Cola in sustaining the termination. In his decision, the arbitrator wrote that Mr.

Hernandez willfully broke into the office and, knowing what he was doing was against company policy, broke into the account and printed out the dispatch records for his “personal use.”

39. The arbitrator’s decision was flawed in many ways. First, it failed to consider that there were no established procedures as to what a union shop steward could or could not do to investigate a matter like Mr. Majano’s case. Mr. Hernandez was not aware he was violating company policy when he printed the logs, but instead was making a good-faith effort to perform his role as a shop steward. Second, even if Ms. Ramos’s testimony disagreed with that of Mr. Hernandez, there was another witness, Mr. Majano, who had seen the events. Mr. Majano’s testimony corroborated Mr. Hernandez’s account that he was initially given permission to view and print the logs. Inexplicably, the arbitrator failed to consider this testimony at all in his written opinion. Third, there was no evidence that Mr. Hernandez actually “hacked” into the dispatcher’s computer, nor that he had the ability to do so.
40. The investigation and arbitrator also failed to account for the fact that printing dispatch records, even without a legitimate reason, is something that is frequently done by various employees in the company. Mr. Hernandez has been informed of several other times when this happened – for example, a week before Mr. Hernandez printed out the logs, white driver Paul Mongelli spent two hours printing out logs in front of the supervisor on duty for his personal use. And a few weeks after Mr. Hernandez was fired, Mr. Mongelli again printed dispatch logs without permission in the presence of Mr. Roche and Ms. Ramos. Mr.

Mongelli, a white employee, was ever terminated, or even reprimanded, for his unauthorized printing of dispatch logs from the system.

41. Mr. Hernandez is also aware of an even more egregious case of actual “hacking.”

Mr. Roche once sent a nasty email by accident to the branch manager, and later had his son come in to break into the computer system and delete the email. Mr. Roche was never punished for this egregious violation.

42. Further, the company falsely claimed during the arbitration that proper training was given to workers regarding policies against printing the logs in 2008. Mr. Hernandez believes a document claiming this training occurred was fabricated by the company after his termination, since during the Human Resources investigation Ms. Clavel could not produce this document. Neither Mr. Hernandez nor union steward Mr. Staropoli, nor any of the other drivers, remembers ever receiving such training about computer policies.

43. The real reason for Mr. Hernandez’s termination was that the white managers wanted to retaliate against Mr. Hernandez for his complaint about Mr. Suarez and his activity in organizing the minority workers, which he was just beginning to do as a union steward. Through false testimony and a flawed investigation, Mr. Aemesigeo and other white managers were able to blow the log printing incident out of proportion and use it as a pretext for Mr. Hernandez’s termination. After his termination, a petition signed by over 300 union workers asked for Mr. Hernandez’s reinstatement, but failed to convince the company to change its decision.

44. Even after his termination, the management at Coca-Cola tried to prevent Mr. Hernandez from receiving unemployment insurance payments or finding a new job. After he applied for unemployment benefits, the New York Department of Labor informed Mr. Hernandez in September 2009 that Coca-Cola had told them he was on a “leave of absence,” rather than terminated from the company. Mr. Hernandez had to write back confirming that he was terminated to receive unemployment benefits.
45. Later in September 2009, Mr. Hernandez found a job at another company, which required proof of a drug test he had taken at Coca-Cola. However, when the company contacted Coca-Cola, the latter claimed that Mr. Hernandez had never worked there. Only when the company asserted that Coca-Cola was required by law to provide this information did Coca-Cola admit that Mr. Hernandez had worked there and provide the necessary information.
46. Mr. Hernandez has suffered significant emotional harm from the discriminatory work environment at Coca-Cola and his termination and the hostility demonstrated against him even after he no longer worked at Coca-Cola. Not only did his finances suffer after he lost his job, but he also suffered from anxiety, anger, and stress from his unjustified termination. After nearly fifteen faultless years at Coca-Cola, Mr. Hernandez believes he was fired simply for daring to speak up for his rights and the rights of other minority co-workers. Indeed, the fact that the company tried to prevent him from getting benefits and a new job after his termination shows the extent to which the management was willing to go to retaliate against him.

John Tindal

47. Mr. Tindal, a black American, has been employed by Coca-Cola since July 1989 as haulage driver.
48. Since 2009, white supervisors Larry Moloney, Gabino Roche, and Joe Aemesigeo have subjected Mr. Tindal to frequent harassment, frivolous discipline, and biased assignment of work duties.
49. The discriminatory treatment against Mr. Tindal falls into several categories. In assigning days of work, the white supervisors have frequently ignored the union-established seniority system in order to allow white drivers with less seniority to earn overtime while Mr. Tindal has been not given work. And in recalling drivers to the station after a specified number of hours of work, Mr. Tindal has often been recalled earlier than white drivers who started working later in the day than he did, decreasing Mr. Tindal's work hours and compensation. Further, Mr. Tindal has frequently been disciplined for frivolous causes, which the white drivers have not had to endure. Numerous examples of these kinds of discrimination may be seen in the past two years.
50. On February 7, 2009, Mr. Tindal was denied work. However, against the seniority system, a white driver who was junior to him did get to drive. Mr. Tindal submitted an administrative grievance and was later paid for that day.
51. On February 14, 2009, Mr. Tindal once again was denied work. Two white drivers who were junior to him were given administrative work and were paid. Mr. Tindal again grieved the situation to white supervisor Joe Aemesigeo, but his response was that administrative positions were not covered by the union contract

- and could be assigned based on the company's discretion. However, upon Mr. Tindal's recollection, administrative duties are only assigned to white drivers when there is a shortage of driving work, while black drivers are simply not given work or pay. Mr. Tindal's grievance failed to get him compensation for that day.
52. On October 11, 2010, shop steward Thomas Starpoli asked Mr. Tindal to work "switch" driving in the yard, and then informed the central office of his assignment. Mr. Roche then called Mr. Tindal and angrily asked him what he was doing and told him to come to his office. There, Mr. Roche told him that "common sense" should have let Mr. Tindal know to check in with the office to inform them of his new assignment. When Mr. Tindal tried to respond by saying that Mr. Starpoli had informed the office of his whereabouts, Mr. Roche put his hand up to silence him. To Mr. Tindal's knowledge, white employees are not monitored to such a degree and are not treated in such a disrespectful fashion.
53. On November 17, 2010, Mr. Tindal drove to a store in where he needed several hours to unload his truck. Mr. Roche called Mr. Tindal and angrily yelled at him for the delay, and then asked to speak the local supervisor. The local supervisor proceeded to inform Mr. Roche that there were multiple trucks ahead of Mr. Tindal's and that he clearly needed more time to unload his truck. To Mr. Tindal's knowledge, Mr. Roche does not call other drivers to harass them about unloading times, and was already aware that there would be delays in unloading.
54. On November 18, 2010, Mr. Tindal, who was instructed by Mr. Roche to call him every half hour to inform him of his whereabouts, found out from a white driver that he never has to call back so frequently. On January 4, 2011, he found out

again from another white driver that he did not have to call back every half hour like Mr. Tindal did.

55. On November 19, 2010, Mr. Tindal was recalled to the office due to supposed time limits, while three white drivers who started working before him that day were not recalled. These drivers remarked that they felt it was “not right” that Mr. Tindal was being called back before they were, even though they had already driven for more hours.
56. On December 23, 2010, Eric Foust, a white driver and dispatcher, informed Mr. Tindal that the day before Mr. Roche had once again been trying to recall Mr. Tindal before other drivers who started earlier than him. Mr. Foust also informed Mr. Tindal that Mr. Aemesigeo “had a problem with him.” Mr. Tindal could not understand this because he has never done anything to break company policy or offend his supervisors.
57. On December 31, 2010, pizza was delivered to the dispatcher’s office to be distributed to the entire haulage department. However, Mr. Tindal and the other black drivers did not have access to enter the dispatcher’s office to receive any pizza, while the white employees were allowed to do so.
58. On January 13, 2011, Mr. Tindal was again recalled before other drivers who started earlier in the day were. A supervisor asked him if he was a “troublemaker,” because he was always being recalled earlier than others. Mr. Tindal does not believe he was ever a troublemaker, and that racial bias is the real cause of him being recalled earlier.

59. In January 2011, Mr. Tindal was treated for a repetitive stress injury in his elbow, which his doctor described as work-related. When he submitted the necessary forms to be put on worker's compensation, his supervisors Mr. Roche and Mr. Aemesigeo took weeks before returning the forms, and forced Mr. Tindal to undergo a needless drug test. Further, their conclusion was that the injury was "avoidable", which would jeopardize Mr. Tindal's career at Coca-Cola.
60. After Mr. Tindal retained an attorney to seek workers' compensation, the company benefits coordinator spoke to Mr. Roche and Mr. Aemesigeo. He pointed out that these two supervisors had recently declared that a very similar repetitive stress injury for a white employee was "unavoidable." Only after this confrontation did Mr. Roach and Mr. Aemesigeo change their evaluation of Mr. Tindal's injury to "unavoidable", and allow him to receive workers' compensation.
61. In April 2011, Mr. Tindal filed a formal complaint to Human Resources about his the harassing and biased treatment he has suffered from his supervisors. Since then, only some of the frivolous recalls and discipline has stopped, but most aspects of his discriminatory treatment have remained.

Sandra Walker

62. Ms. Walker, a black American, began working for Coca-Cola in March 1998 at its plant in Maspeth, Queens as a merchandiser. In 2001, she began working in the production department as a production assistant, a position she holds to this day.

63. Over the course of her employment, Ms. Walker has proven herself as a hard-working, dependable employee. However, despite her performance, Ms. Walker has been subjected to unfair discipline, racist harassment, and a hostile work environment which has materially altered the terms and conditions of her employment.
64. In or around 2005, Ms. Walker's white supervisors attempted to terminate her for the minor infraction of parking in the front parking lot. To her knowledge, no white employees have ever been penalized to such a degree for doing the same thing. After the managers realized that she would likely pursue a discrimination lawsuit, they retracted her termination, but to date a disciplinary write up remains in her file over this incident.
65. In the spring of 2006, a white co-worker named Derrick was working his last day at the Maspeth plant. To celebrate Derrick's departure, several Caucasian co-workers in the plant began to drink alcohol while on the job. Derrick looked directly at Ms. Walker and stated, "I've never slept with a black woman." Ms. Walker was understandably appalled by this behavior. Nevertheless, Derrick continued to tell her about all of the female employees at the plant that he had had sexual relations with. Apparently, none of the supervisors present felt that Derrick's comments were inappropriate.
66. Like Mr. Vilceus, Mr. Walker is also aware of the incident when a white co-worker named Phil McCauley came to work wearing a Confederate flag on his head. Ms. Walker and the other African American employees were obviously

offended by the display. Finally, after Ms. Walker complained to her superiors, McCauley took off the flag.

67. Ms. Walker was present during several public displays of racism that are described more fully in Mr. Vilceus's section of this complaint. These include the times when white employee Ms. Pernelli asked "Why do I always have to clean out the sewer? What am I, a nigger or something?" and when she said "that nigger is trying to kill me by taking screws out of the ladder." Ms. Walker was also offended when Marcello Ocello yelled out, "the government is handing out Kentucky Fried Chicken!" after President Obama was elected.
68. Additionally, one of Ms. Walker's co-workers, Dowin Lewis, would frequently express his dislike of Black American culture. Mr. Lewis has stated to Ms. Walker and others that "Black American women are not capable of washing themselves properly. They smell bad and their homes are nasty and filthy." Mr. Lewis would often refer to certain kinds of food as "slavery food." Mr. Lewis would regularly make these racist and offensive comments in the presence of Ms. Walker's white supervisors. Mr. Lewis was never reprimanded for his remarks.
69. On May 15, 2010, Ms. Walker was instructed by her white supervisor, Joe Manuzza, to mop the borders of the building. Upon information and belief, no Caucasian employees in the department were ever assigned to mop the borders.
70. On September 16, 2010, Ms. Walker was written up by white supervisor Joe Manuzza for failing to attend a shift meeting held the day before.
71. While Ms. Walker was written up for missing the meeting, Mr. Manuzza rarely, if ever, disciplined Ms. Walker's white co-workers for missing meetings. Indeed, on

- several occasions, white co-workers Bobby Dowd, Jr., and Steve McCurrio missed meetings without facing penalty.
72. When Ms. Walker received the disciplinary notice from Mr. Manuzza, in recognition of the differential treatment that she was being subjected to, she approached Mr. Manuzza in his office and told him that he was “a racist.”
73. Mr. Manuzza reported to management that Ms. Walker told him “You’re a dead man,” and that he allegedly feared for his life as a result. Mr. Manuzza’s allegations were categorically and undeniably false. Numerous witnesses were present who have substantiated that all Ms. Walker said was “you are a racist.”
74. Nevertheless, Ms. Walker was suspended for five weeks without pay pending an investigation, and put on “final written warning”, meaning she can be terminated for any future disciplinary action. The company investigated Mr. Manuzza’s account, and determined that Ms. Walker never made any threatening comments. Indeed, the investigation demonstrated that Mr. Manuzza lied, and fabricated a story in order to discipline Ms. Walker for complaining about discrimination.
75. Nevertheless, Ms. Walker was never paid for the five weeks in which she was suspended, resulting in a loss of \$2,500 in income. Further, Mr. Manuzza was never reprimanded for creating such blatant fabrications. Ms. Walker’s suspension was clearly retaliation for calling Mr. Manuzza a racist, and for protesting discriminatory practices.
76. Moreover, it is undisputed that on December 22, 2010, a Caucasian employee *did* threaten to harm Mr. Manuzza. Specifically, co-worker Joe Rosalia told Mr. Manuzza “I’ll beat the shit out of you.” This encounter was witnessed by

several employees. In fact, one week earlier, Mr. Rosalia, in a violent outburst, angrily yelled, "Fuck that! These dumb mother fuckers, I'm going to fuck someone up! I'm going to drop a bomb on Coca-Cola!"

77. Mr. Rosalia was never reprimanded for any of his threats. However, as already stated, when Ms. Walker was falsely accused of "threatening" Mr. Manuzza, she was suspended for five weeks without pay.

78. After Ms. Walker returned, the company tried to change the reason for her suspension. Upon Ms. Walker's knowledge, white supervisor Debra Babic was engaging in sexual relations with another employee, and had sent nude photographs of herself to other employees. Ms. Walker received these photographs, and her white managers forced her to show these photographs to them or else face termination.

79. The managers claimed these photographs were not of Ms. Babic and accused Ms. Walker of lying about them. They then changed their reason for Ms. Walker's suspension, asserting that her lying about these photographs and supposedly "sexually harassing" Ms. Babic was the real reason she was being suspended. Certainly, this absurd charge was invented because the company could not prove that she had threatened Mr. Manuzza.

80. Ms. Walker submitted a grievance over her suspension on October 29, 2010. However, Ms. Babic, the same supervisor whose nude photographs were implicated against Ms. Walker, was the manager in charge of reviewing her grievance. As may be expected, Ms. Babic rejected Ms. Walker's grievance without any written explanation for why her suspension should be sustained.

81. When Ms. Walker was reinstated in November 2010, she was assigned to be a filler operator. This required Ms. Walker to feed the bottling machine soda caps from a metal bucket for seven hours each day. The filler operator position is widely considered an unfavorable work assignment among the employees at the Maspeth plant, because of the physical toll it takes on employees. Ms. Walker believes she was assigned to this position in retaliation for her complaint about Ms. Manuzza's racism.
82. Ms. Walker began to develop shoulder pains from working in her new position. Nevertheless, despite her deteriorating physical condition, Ms. Walker continued to work hard at the new position.
83. Later in November 2010, white supervisor Thomas Metzger warned Ms. Walker that the managers "want your hide on the wall" and that "you better watch your back, because they're after you."
84. One day when Ms. Walker was working in the filler position along with another white female employee, Mr. Metzger went over to help the white employee with loading the caps into the machine, a physically difficult task. Ms. Walker then asked him why he never helped her with her caps. Mr. Metzger replied by yelling, "if you blow this out of proportion, that'll be the end of you."
85. Whenever Ms. Walker took her breaks in November, Mr. Manuzza would approach her work area, and time her to make sure she did not take more than 15 minutes, as this would give him grounds to discipline her. Mr. Manuzza would also quiz her on the machinery, and the bottling process. Recognizing that Mr.

- Manuzza was looking for an excuse to terminate her, Ms. Walker made sure to perform her duties exceptionally well.
86. Because of her efforts in a physically demanding position, Ms. Walker developed bursitis in her shoulder and carpal tunnel syndrome in her hands. On December 30, 2010, she took a medical leave in order to improve her condition.
87. Throughout her medical leave, Coca-Cola sent letters to her threatening her termination if she did not return, even though the company knew her doctors had stated she was not fit to return to work. This was a violation of company and union policy on medical leaves, but the harassment continued anyway throughout her leave.
88. Coca-Cola also tried to prevent her from receiving workers' compensation during Ms. Walker's medical leave. In her workers' compensation hearing, the Coca-Cola lawyer unethically revealed to the judge that she was taking part in a discrimination suit against the company. Despite this breach of conduct, Ms. Walker eventually won workers' compensation.
89. In November 2011, Ms. Walker filed a second EEOC complaint describing the recent discriminatory treatment towards her, including her unjustified suspension for five weeks.
90. Ms. Walker returned to work on November 28, 2011. She fears retaliation and continued harassment even as she makes her best efforts to do her job.
91. Since she returned to work, Ms. Walker has witnessed and experienced discriminatory treatment. For example, in December 2011, Ms. Babic yelled at her needlessly for not wearing a hairnet, when in fact she was wearing a scarf that

functioned the same way to stop any hair from falling. On December 6, Ms. Walker also witnessed Ms. Babic give only a warning to two white employees who took an extended lunch break. Ms. Babic is known to never give warnings to black employees, but instead always gives disciplinary warnings for any rules infractions.

92. The hostile work environment and unfair discipline has caused Ms. Walker severe emotional harm. She has suffered from sleeplessness, weight gain, and anxiety, and currently sees a psychotherapist to cope with these problems.

Michael McRae

93. Mr. McRae, a black American, was employed by Coca-Cola from 1998 to 1999 as a merchandiser and truck driver, from 1999 to 2006 as a cooler mover, and from 2006 onward as a soda fountain technician.

94. Through his years of employment, Mr. McRae has suffered from discrimination in the assignment of his duties, opportunities to advance, and treatment from supervisors. In particular, from 2008 to 2011 he was targeted by a white supervisor, Michael Valari, who repeatedly tried to get him in trouble and terminated from the company.

95. Although Mr. McRae received a position as a truck driver in 1999, he was prevented from actually serving as a driver for two years by white supervisor Gary Matinelli. Mr. Matinelli repeatedly assigned Mr. McRae to tasks outside of his job description, such as washing equipment and cleaning bathrooms. At the same time, Mr. Matinelli assigned white drivers who had less seniority than Mr. McRae to driving.

96. Because he was not actually driving, Mr. McRae did not receive driver's wages, representing a significant decrease in his salary. Meanwhile, white workers who were not assigned to driving tasks were still paid driver's wages, because they were "grandfathered" into the system, an option that was not given to Mr. McRae.
97. In January 2001, while moving a vending machine, a task outside of his job description, Mr. McRae badly injured his shoulder's rotator cuff. This resulted in surgery and years of suffering for Mr. McRae that continues to this day.
98. Later in 2001, Mr. McRae finally was assigned as a driver after he made a formal complaint to his union about the undesirable and physically dangerous tasks to which he was being assigned.
99. In 2003, supervisor Sam Villanova ordered workers to break into Mr. McRae's locker to look for drugs. This is because they suspected him of being a drug dealer, because despite his relatively low income Mr. McRae was driving an expensive car. Even though they found no contraband, Mr. Villanova was not reprimanded for ordering this unjustified search of his personal belongings.
100. From 1999 to 2006, Mr. McRae tried several times to apply for open positions as a mechanic, for which he was fully qualified. Every time he put his name on a job application poster, however, Mr. Matinelli would take the poster down and change the qualifications so that Mr. McRae was no longer qualified. White employees were hired for the positions Mr. McRae applied for.
101. Only after seven years was Mr. McRae able to apply successfully for a position as a mechanic. He gained his current position as a fountain technician in 2006.

102. In October 2008, a white supervisor named Michael Valari was transferred to Mr. McRae's branch and made Mr. McRae's supervisor. Mr. McRae believes that Mr. Valari was given instructions to try to terminate him.
103. The first time they met, Mr. Valari remarked to Mr. McRae that he had a vacation coming up, for which Mr. McRae had previously gotten approval. Mr. McRae went on his vacation a few days later. He discovered upon his return that Mr. Valari had tried to terminate him for "job abandonment" during his absence. Mr. McRae successfully grieved this with his union, and was not terminated because he had clearly received approval for his vacation. This was the first of several unjustified attempts by Mr. Valari to get Mr. McRae in trouble.
104. Mr. Valari established new rules for Mr. McRae that required him to call Mr. Valari whenever an account was closed or a job could not be finished. To Mr. McRae's knowledge, these rules were not applied to any of the white workers. Further, Mr. McRae often could not comply with these rules because he was unable to reach Mr. Valari by telephone. At numerous times, Mr. Valari was actually at work and available when Mr. McRae called, but would simply not answer the phone.
105. On January 13, 2010, Mr. Valari asked Mr. McRae if he had a file of disciplinary write-ups. When Mr. McRae, who is a punctual and diligent worker, replied that he did not, Mr. Valari said "let's see what I can do about that." Mr. Valari then began to review Mr. McRae's record to find any excuse for disciplining him.

106. In their conversations, Mr. Valari referred to Mr. McRae several times as “big boy” or “Moe”, which Mr. McRae felt was racist and offensive. Mr. McRae brought a complaint about this racist name-calling to Human Resources at the end of January 2010.
107. Soon after he filed the complaint, on February 1, 2010, Mr. McRae was summoned to Mr. Valari’s office. For four hours, Mr. Valari berated Mr. McRae about not calling him when jobs were not finished, and gave him a series of disciplinary write-ups regarding this. These write-ups dated back to even before Mr. Valari was transferred to his branch, when it was clearly impossible for Mr. McRae to have called him about problems at work. Mr. McRae believes these absurd write-ups were a direct retaliation for his complaint about name-calling.
108. Also in February, Mr. Valari changed Mr. McRae’s work assignment from maintenance of fountain machines to installing them, which was an effective demotion. Mr. Valari also spread rumors that Mr. McRae was not doing his work properly. Several times, Mr. Valari also gave Mr. McRae tests on the machines that were rigged so that there was no way Mr. McRae could pass. Mr. McRae continued as an installer until July 2011, after Mr. Valari left the company.
109. In March 2010, Mr. Valari requested that Mr. McRae sign a declaration stating that if anything was missing from his company van, he would be liable for the loss. Mr. McRae consulted his union representative and refused to sign it. As Mr. McRae was leaving his office after refusing to sign, Mr. Valari said, “I know there’s something you signed before that I can get you for.”

110. Since he became supervisor, Mr. Valari pushed Mr. McRae to do his work as fast as possible, despite his older age and previous injury. In April 2010, Mr. McRae reinjured his neck and shoulder while rushing to finish a job. His doctor told him that he could not return to work while he was recovering. While it was clearly a workplace injury, for several months Mr. Valari and Mr. Matinelli refused to fill out an accident report so that Mr. McRae could receive workers' compensation.
111. On his first day back at work after his recovery, Mr. McRae told Mr. Valari that he would obtain a letter from his doctor later in the day stating he was fit to return. Without informing Mr. McRae, Mr. Valari then called Mr. McRae's doctor and told them not to write the note saying he was fit for duty. Mr. McRae later found out from his doctor that he had received this phone call, and reported the incident to Human Resources. Only after he made this complaint did Mr. Valari finally fill out the accident claim report.
112. In or around April 2011, Mr. Matinelli and Mr. Valari were terminated, possibly as a result of their improper contacting of Mr. McRae's doctor. However, the environment of discrimination for Mr. McRae has not ended with the departure of these two tormentors.
113. One example of the continuing discrimination is in the rules for company vans. Before Mr. McRae became a mechanic, all mechanics were allowed to take their utility vans home with them every night. After he gained a mechanic position, the rules were changed so that new workers like Mr. McRae were not allowed to take their vans home. However, in October 2011 Mr. McRae became

aware of a mechanic related to one of the managers who, since he was hired two months ago, has been allowed to take his van home every night. Mr. McRae complained to Human Resources about this discrepancy in October, and was only able to take home his van in December 2011.

114. Another example can be seen in his recent treatment by a white branch manager, Tom Rost. On November 18, 2011, Mr. Rost said to Mr. McRae, “good night, Moe,” using the same racist term Mr. Valari had used two years ago. Mr. McRae told him he considered the term strange and offensive, and asked Mr. Rost why he had used it. Mr. Rost said he could not explain why he used it. Mr. McRae then offered a handshake as a sign of resolving the situation. But Mr. Rost refused to shake his hand, saying to him, “I’m not going to shake your hand. Where I come from we don’t shake hands with people like you.” Mr. McRae later reported this incident to Human Resources.

115. Over the years, Mr. McRae has not only been physically injured by the work assigned to him outside of his job description, but has also suffered emotionally from the racist work environment. He has suffered from anxiety and depression from the harassment he has received at work, whose environment he feels like is a return to the “Jim Crow” era of segregation and discrimination.

Dave Vilceus

116. Mr. Vilceus, a black Haitian-American, has been employed by Coca-Cola since October 1995 as a machine operator.

117. Since the start of his employment, Mr. Vilceus has suffered discrimination in the assignment of training and duties, disciplinary actions, and verbal

harassment from supervisors. Mr. Vilceus has faced unjustified threats of termination along with retaliation for an EEOC complaint he filed in 2003.

118. From the start of his employment, Mr. Vilceus has faced difficulty in accessing training for the various machines on the factory production floor. Despite his requests to be trained on these machines, Mr. Vilceus did not receive training for years, while white employees, often with less seniority, received training.

119. Because he has not been trained on these machines, Mr. Vilceus has been generally assigned to the most undesirable tasks in the factory, such as pallet repair, recycling, or cleanup, which white employees generally do not have to perform. Further, his lack of training means that Mr. Vilceus has been denied opportunities to advance in the company, since familiarity with the machines is often a requirement for foreman and other supervising positions.

120. In 2002 Mr. Vilceus requested that white manager Paul Weiss give him training on several machines, since Mr. Weiss had chosen four white employees with less seniority to train on them. Mr. Weiss refused to give Mr. Vilceus training, and never explained why he refused. Mr. Vilceus brought this to the attention of the white manager of operations, David Prespetino, who promised that something would be done, but never followed through on his promise.

121. As a result of his lack of training, in 2002 Mr. Vilceus was injured while working at a filler machine which he was never properly instructed to use.

122. Mr. Vilceus has frequently been subjected to unfair discipline from white supervisors, often in cases where he was not at fault, while similarly white employees situated are not treated this way.
123. On April 4, 2002, Mr. Vilceus asked a co-worker to watch a machine for a few minutes because he needed to use the restroom and take some medications. When he returned, Mr. Weiss yelled at him and later wrote a disciplinary report for his brief break, while white workers can take breaks with impunity.
124. On March 31, 2003, Mr. Vilceus was accused of letting four bad pallets of soda run through a machine, even though he was actually taking his lunch break when this mistake occurred. Rather than asking Mr. Vilceus what had happened, Mr. Weiss yelled at him in front of his co-workers and other managers. In another incident, a white employee actually let ten bad pallets of soda run through the machine, but instead of yelling at him Mr. Weiss calmly sat down with him to fix the problem.
125. In May 2003, Mr. Vilceus filed a charge with the EEOC claiming discrimination in his lack of training, assignment to undesirable duties, and unfair discipline at work. Instead of resolving these issues, the company only retaliated against him.
126. On June 26, 2003, shortly after Mr. Vilceus filed his EEOC charge, he was working at a depallitizer machine when the temperature was over 100 degrees in the plant. Fearing he would pass out from the heat, he stopped working briefly to regain his composure. White manager Mike Limbaugh approached him and said he would have to write him up for this. On July 22, 2003, Mr. Vilceus was given

a disciplinary notice for taking this momentary break. He believes this frivolous write up was directly in retaliation for filing his EEOC charge.

127. On March 29, 2005, Mr. Vilceus was again given an unfair disciplinary write up. He had returned from his normal 10 minute break when his supervisors accused him of taking 10 minutes extra break time, which he did not do. Instead of checking the clocks for when he punched in and out, the supervisors proceeded to give him a “final written warning” based on their unsubstantiated claim that he had taken extra break time.

128. One day in December 2005, Mr. Limbaugh ordered Mr. Vilceus to go outside to shovel snow, which is outside of his job description. Despite the fact that it was extremely cold outside, Mr. Vilceus complied with the order. After shoveling snow for an hour, Mr. Vilceus was approached by another supervisor, who asked him why he was shoveling snow, and then said, “it must be because you did something wrong.” Mr. Vilceus had done nothing wrong, but had a racist supervisor who wanted to harass him by giving him this onerous task. He is not aware of any white workers who were ever given the task of shoveling snow.

129. Once in 2007, after Mr. Vilceus relieved another worker, there were bottles and garbage strewn around the work area from the previous worker. Instead of blaming the previous worker, his supervisor gave Mr. Vilceus a write-up for the dirty work area, even though Mr. Vilceus’s shop steward advised the supervisor that it was improper to do so.

130. Despite his seniority over other workers who are given permanent positions, Mr. Vilceus has generally not been assigned to a permanent position

throughout his employment at Coca-Cola. Instead, he is usually assigned day-by-day to the most undesirable, dirty, and difficult tasks available.

131. While it is certainly not his fault, Mr. Vilceus has even been punished for his lack of a permanent position. On March 6, 2006, Mr. Limbaugh asked Mr. Vilceus what his scheduled location was, and Mr. Vilceus replied that he did not have a specified position scheduled. Mr. Limbaugh then yelled at him in front of his co-workers, threatening to fire him over his alleged poor performance. He also said that the next time they met, “if you don’t have your schedule in your hand I’m going to fire you.” Mr. Vilceus was terrified of being fired because he was frequently not given a scheduled location. That month, he was forced to change his shift from the first to third shift in order to avoid Mr. Limbaugh in the future.

132. Through the years, Mr. Vilceus has also had to endure a work environment full of racist remarks from white co-workers, who are not reprimanded for their actions. For example, in the fall of 2006, white employee Paul McCauley came to work with a Confederate flag on his head, an obviously racist symbol. In the spring of 2007, white employee Angela Pernelli complained about being assigned a cleaning position by saying loudly, “Why do I have to clean out the sewer? What am I, a nigger or something?” Later in 2007, Ms. Parnelli, referring to black co-worker Yvette Butler, said “that nigger is trying to kill me by taking screws out of the ladder.” In 2008, after President Obama won the election, white employee Marcello Ocello yelled “the government is handing out Kentucky Fried

Chicken!” in front of other co-workers and supervisors. None of these white employees were ever reprimanded for their overt displays of racism.

133. Even after 15 years of service at Coca-Cola, in the last few years Mr. Vilceus is still being assigned the most undesirable tasks on the production floor, while new white workers are given preferable jobs. In March 2010, Mr. Vilceus requested to train on a new labeling machine, but was again rejected by his white supervisor, and instead sent to pallet repair.

134. In or around May 2011, Mr. Vilceus developed a shoulder injury while working at pallet repair. Despite the fact that the work of lifting the heavy pallets was responsible for the injury, after Mr. Vilceus returned to work his supervisors put him back on pallet repair, where he now has to be extremely careful not to injure himself again.

135. Mr. Vilceus’s current white supervisors, Kevin Masters and Joe Manuzza, have continued the pattern of unfair discipline that Mr. Vilceus has suffered. Unlike white workers, Mr. Vilceus is scrutinized intensely whenever he takes a break, and yelled at for problems that are not even his fault.

136. Once in 2011, Mr. Manuzza yelled at him because the pallet stamping machine was broken, telling him that he needs to go back to “elementary school” to learn how to use it, even though it was not Mr. Vilceus’s fault that the machine broke. Another time in 2011, Mr. Vilceus was assigned to a filler machine that he had never been properly trained to use, and Mr. Masters wrote him up for failing to clean the bottom of the filler, which he had never been instructed to do. Later in 2011, Mr. Vilceus was given another disciplinary write up because the labeling

machine was malfunctioning and sending through bottles with the wrong labels. When machine malfunctions occur for white employees, they are never blamed for it and given disciplinary write ups like Mr. Vilceus has been.

137. On November 19, 2011, Mr. Vilceus was moved several times during his shift, from forklift to box maker to depalletizer and then back to box maker, each time being replaced by a worker with less seniority. Mr. Vilceus complained about being moved around so much to his shop steward, who replied that his supervisor “likes to move around black workers” but does not bother the white workers in the same way.

138. In addition to being physically injured from his work assignments, Mr. Vilceus has suffered significant emotional harm from the racist work environment and unfair discipline he has received. He feels humiliated whenever he is ordered to do the most undesirable and dirty tasks, and has suffered from anxiety and paranoia from fear of being disciplined or terminated. He currently sees a psychotherapist to cope with the anxiety and stress from work.

Diane Worrell

139. Ms. Worrell, a black American, has been employed by Coca-Cola since August 2001 as a production associate at its Maspeth branch.

140. Through her employment at Coca-Cola, Ms. Worrell has been subject to discrimination in ridicule over her weight and appearance, assignment of undesirable duties, and unfair discipline. She has suffered from a hostile work environment full of racial bias and innuendoes on the production floor.

141. Right from the beginning of her employment, Ms. Worrell was faced with a Jamaican-American supervisor named Ron Evans who liked to ridicule her over her weight. As she was starting in September 2001, he told her, “you need to lose weight!” and claimed that her heavy weight was preventing her from working faster on the filler machine. Later in the month, because she was trying to rush to fix a problem, Ms. Worrell tripped and injured her hip. Later that day, Mr. Evans commented again on her weight by pointing out a co-worker and saying, “you need to be slim like her.” To Ms. Worrell’s knowledge, Mr. Evans never insulted white employees this way, nor was he ever reprimanded by the white supervisors for his harassment.

142. About a month into her employment, Ms. Worrell was transferred to do cleanup work. Although this meant she could get away from Mr. Evans, it also put her on the dirtiest and most undesirable tasks in the production plant, to which white employees are generally not assigned. Ms. Worrell remained on clean up duty for approximately five years, while many white employees who were junior to her were assigned to the machines.

143. Even among the cleaning jobs, black workers like Ms. Worrell were always assigned to the most hazardous locations to clean, often without the necessary safety equipment. These included places like the boiler room, which was inundated with dangerous chemicals, and which Ms. Worrell often had to clean without a safety mask or chemical jumpsuit. To Ms. Worrell’s recollection, white employees never had to clean places like the boiler room, and were given

the necessary safety equipment when they did have to work in hazardous conditions.

144. Throughout her employment, Ms. Worrell has observed offensive displays of racism in the plant from white co-workers and supervisors. One egregious example was the treatment of Yvette Butler, the only black female mechanic in the plant, which Ms. Worrell observed in detail. From when Ms. Butler started working in 2003, Ms. Worrell saw white manager Vito Caverelli referring to Ms. Butler as “idiot” and “moron” when she was trying to train on the machines. In the summer of 2005, Ms. Worrell observed white supervisor Ron Sampa tell Ms. Butler to use a cigarette lighter to heat and soften a hose in a room which contains many flammable chemicals. Fortunately, Ms. Butler did not take his advice and fixed the hose properly, but had she used a lighter as he advised she may have been placed in great danger.

145. In January 2006, on Martin Luther King, Jr. Day, Ms. Worrell witnessed a white employee named Johnny Picca say to Ms. Butler, “what the hell are you doing here? Isn’t it Martin Luther King Day? Didn’t that man die for y’all?” And in 2007, Ms. Worrell witnessed white employee Angela Parnell refer to Ms. Butler as a “nigger”. To Ms. Worrell’s knowledge, none of these white employees were ever reprimanded for their discriminatory treatment of Ms. Butler.

146. As Mr. Vilceus and Ms. Walker did, Ms. Worrell saw and was offended by white employee Marcello Ocello’s outburst, “the government is handing out Kentucky Fried Chicken!” after President Obama was elected. She has also

observed white supervisor Ms. Babic catching Mr. Ocello picking his nose while working on a machine, a violation of company cleanliness policy. Ms. Babic never reprimanded him for this, and Mr. Ocello continues to pick his nose without washing his hands in Ms. Worrell's presence.

147. In recent years, the discriminatory treatment from white supervisors has also affected Ms. Worrell's work directly. In the spring of 2007, Ms. Worrell was operating the labeling machine when a disruption occurred in the line. Her white supervisors, Vito Cavarelli and Ms. Babic, blamed the disruption on her operation of the machine without properly investigating the actual cause of the disruption. Ms. Walker was immediately taken off the machine and put on cleaning duty again. Ms. Worrell later found out that the malfunction was indeed due to a mechanical failure, but she remained on cleaning duty for months afterward.

148. In the summer of 2008, Ms. Worrell was operating the labeling machine and was relieved by a white female worker named Pat while she went to lunch. Pat changed the labels while Ms. Worrell was at lunch, resulting in incorrect labels being put on the bottles. However, the white supervisors blamed Ms. Worrell for this mistake. In their investigation, the supervisors only interviewed Pat, who claimed she did not change the labels, and did not interview Ms. Worrell. The result was a disciplinary write up against Ms. Worrell, and no punishment for Pat. In this case, it was the word of a white employee against a black employee, and predictably the white managers believed the white employee and unfairly punished Ms. Worrell for the error.

149. For several years, Ms. Worrell and other black workers were forced to work on a broken filler machine, which required them to stand on a ladder to dump caps into the machine by hand. Ms. Worrell was aware that only black workers, and not white workers, were assigned to this machine. Only after a complaint to OSHA was made was the machine finally fixed.

150. Ms. Worrell continues to suffer from the discriminatory assignment of tasks – to date, she is still frequently taken off of machines to do cleanup work, while white workers are allowed to remain at a machine for years at a time.

151. Ms. Worrell has suffered emotionally from the assignment of the worst tasks to her and the racist work environment. She has suffered from anxiety, sleeplessness, and extreme self-consciousness, and currently sees a psychotherapist to cope with these problems caused by her work environment.

Guillermo Nunez

152. Mr. Nunez, a Hispanic American, has been employed by Coca-Cola since October 2002 as a transportation dispatcher.

153. Throughout his employment, Mr. Nunez has been subject to discrimination in his assignment of duties, opportunities for advancement, and disciplinary actions from supervisors. The verbal harassment and hostile work environment have caused Mr. Nunez panic attacks that have sent him to the emergency room.

154. From the start of his employment, Mr. Nunez was treated differently from similarly situated white employees. He only received four days of training before

his white manager, Larry Moloney, sent him to work on dispatch, while white workers typically have weeks or even months of training before they begin working.

155. Mr. Moloney's expectations of work from Mr. Nunez were also much higher than from his white co-workers. Mr. Nunez was expected to work on weekends, and was threatened with termination if he did not do so, while white workers could choose whether to work on weekends or not. Mr. Moloney also expected Mr. Nunez to perform the duties of supervisors, even though he was not paid at a supervisor's salary.

156. Further, Mr. Nunez suffered from an environment of casual racism while working under Mr. Moloney. Like Mr. Hernandez, Mr. Nunez also frequently heard from Mr. Moloney, "eres maricon?" ("are you a homosexual?"). Mr. Moloney also remarked, in reference to Mr. Nunez's children and Latino ethnicity, that "you people always have so many kids." Further, when Mr. Nunez went to work wearing jeans, Mr. Moloney would reprimand him for looking like a "thug" or "from the streets," while he would never reprimand white employees when they wore jeans to work.

157. Mr. Nunez later worked for a white supervisor, Gambino Roche, who, despite being from Cuba, frequently made references to his "pure" German ancestry. Mr. Roche would frequently remark on how efficiently Nazi Germany was run, despite the obviously racist implications of such comments.

158. Mr. Nunez also observed the racist treatment of Louis Mack, a black driver, who Mr. Moloney frequently called a "pimp." Mr. Mack was fired

because of a minor incident when he asked for a case of Dasani water that had fallen on the floor and hence could not be sold. When a production worker gave him the water, Mr. Mack gave it to the security guard to hold onto it until the end of the shift. The guard reported this to Mr. Moloney, which eventually led to Mr. Mack's termination. Mr. Nunez is also aware of a white employee, Mr. Miller, who fought with another employee and was actually caught by the security guard stealing numerous items from the factory, but was never terminated.

159. In 2004, a new white employee named Robert D'Amico was given several months of training rather than the two days Mr. Nunez received. Further, in order to accommodate his training, management moved him to Mr. Nunez's shift, and transferred Mr. Nunez to another facility. Mr. Nunez believes his transfer was due to the fact that he was the only minority dispatcher on that shift.

160. As a truck dispatcher, Mr. Nunez also observed in the detail the company practice of giving minority truck drivers fewer hours of driving time than white drivers, as co-Plaintiffs John Tindal and Ramon Hernandez experienced. Mr. Nunez read many emails from white supervisors which, using language referent to animals, ordered the dispatchers to "reign in" or "put a leash on" certain black drivers who were getting extra driving time. But when a white driver was given extra driving time, the orders instead told the dispatchers to help make sure that his paperwork was filled out properly so he would be paid for his extra work. Mr. Nunez believes this practice of discriminating against minority drivers extended throughout all shifts at the plant.

161. While his white supervisors were giving Mr. Nunez extra tasks to perform, they suggested that he would be in line for a promotion. The supervisors would compliment him on his excellent performance and write positive remarks on his performance reviews. But his overall ratings were only “3” on a scale of 1 to 5, “meeting expectations.” These ratings meant that Mr. Nunez would not get raises based on his performance reviews.

162. Further, when opportunities for promotions appeared, Mr. Nunez was never allowed to achieve them. In 2005, a supervisory position opened for the third (night) shift, and Mr. Nunez was recommended by a supervisor to apply for the position. Mr. Nunez did not want to work the third shift because of family obligations, but he expressed to management that he would be happy to apply to this position if it was in the first or second shifts. He was told there was absolutely no way to change the shift to first or second, so Mr. Nunez did not apply. A white employee was hired for the position, but within a month was able to change his shift to the first shift. Had Mr. Nunez been properly informed that this change was possible, he certainly would have applied for the position.

163. In 2006, another supervisory position was open, and this time Mr. Nunez did apply for it. He had two excellent interviews with managers, who then informed him that the position would not longer be available because of lack of money. Mr. Nunez told the managers he would be interested in any similar positions if they came up. To his surprise, a few weeks later a white female named Lucy was hired for a supervisory position that was almost identical to the one Mr. Nunez applied for. When Mr. Nunez inquired as to why he was rejected

and Lucy was hired, he was told that there were significant differences between the job he applied for and the one Lucy received. However, the two positions were identical in almost every way except name.

164. In 2007, Mr. Nunez applied for a transportation supervisor position, but was again turned down. Instead, the company hired a black employee named Chris Harris, whom Mr. Nunez is aware was owed a favor for testifying about an incident that got another minority worker terminated. Again, despite his supervisors' promises of a promotion for working beyond his job description, Mr. Nunez was not given one. To this day, he remains in the same position he started in.

165. From 2006 onward, Mr. Nunez has been subjected to increasing hostility from his white supervisors, Joe Aemesigeo and Debra Babic. Both supervisors have harassed Mr. Nunez over his work and any minor mistakes he makes, while not mistreating white employees the same way. Ms. Babic has also made frequent remarks about her sexual exploits with black men and even black co-workers, remarking at times that "there's a black man in my bed."

166. From 2007 to 2011, Mr. Nunez made several complaints to Human Resources about the unfair way he was kept from advancing in the company and about his mistreatment by supervisors. Each time, however, Human Resources would take the side of management without offering any constructive way to improve his situation. He was told to "take [his complaints] up the chain of command." This advice was useless, as complaining to the same supervisors who were harassing him would only set him up for more retaliation.

167. In 2008, the stressful work environment and mistreatment caused Mr. Nunez to have a severe panic attack while at work. He had chest pains and breathlessness, and thought he was having a heart attack. An ambulance had to be called, and he was sent to an emergency room for treatment. Since then, Mr. Nunez has been seeing a psychologist to deal with the anxiety and stress caused by his work.
168. In 2008, Mr. Nunez discovered that he was being paid significantly less than a white dispatcher made when the latter had fewer years of seniority than Mr. Nunez did. Mr. Nunez contacted Human Resources about this discrepancy, but the issue was never resolved.
169. In 2009, black supervisor Chris Harris asked Mr. Nunez to call a manager he did not know. Mr. Nunez refused, saying he did not feel comfortable calling someone he had never heard of, and Mr. Harris responded by threatening, "Joe Aemesigeo will take care of you." Mr. Nunez reported this incident to Human Resources, which immediately took the side of the managers and offered no help. Since then, Mr. Nunez has felt that Mr. Aemesigeo has been especially biased against him.
170. On December 28, 2010, Mr. Nunez came to work after a severe snowstorm, which caused many delays in the processing of trucks and drivers at the plant. While Mr. Nunez was trying his best to handle the situation, production manager Ms. Babic repeatedly called him asking the same questions, and accused him of lying about various aspects of his work. Despite his rising anxiety, Mr. Nunez responded calmly to each phone call. Then while Mr. Nunez was busy

dispatching several drivers, Ms. Babic called again, and yelled at him for putting her on speakerphone. Mr. Nunez responded by asking, “why do you have such an attitude towards me?” Ms. Babic immediately yelled, “you see Joe, what I have to deal with?” This indicated that Ms. Babic had set it up so that Mr. Aemesigeo was listening the entire time, and had wanted to instigate some kind of outburst from Mr. Nunez.

171. The week, Mr. Nunez received a disciplinary write up and “coaching letter” about poor communication on the phone and CB radios. Mr. Nunez believes this discipline was completely unfair given that he was doing his best in a difficult situation while having to deal with constant harassment from Ms. Babic.

172. On January 21, 2011, Mr. Nunez was unfairly disciplined again, this time for not exactly working the 3:00 PM to 11:30 PM schedule for his shift. Mr. Nunez previously had an understanding with supervisors Mr. Aemesigeo and Mr. Moloney that he could come in a few minutes late if he left a few minutes late, but this understanding was now disregarded. Mr. Nunez believes he was written up solely to retaliate against him for protesting about Ms. Babic’s harassment. Shortly after this stressful and unfair disciplinary meeting, Mr. Nunez had another severe panic attack that required an ambulance to be called to send him to the emergency room.

173. In addition to the severe panic attacks that have required hospital visits, Mr. Nunez has suffered depression, paranoia and family problems from the hostile work environment at Coca-Cola. He feels frustrated at the lack of opportunities to advance and the unfair discipline he has received from his white

supervisors and managers. With no help from Human Resources or management, he feels trapped in a cycle of discrimination and retaliation at his workplace.

Jose Sanchez

174. Mr. Sanchez, a Hispanic American, has been employed by Coca-Cola since April 2008 as a production associate at the Elmsford branch.

175. Since the start of his employment, Mr. Sanchez has suffered discriminatory treatment in the assignment of work duties, disciplinary actions, and harassment from supervisors.

176. Because Mr. Sanchez has significant experience in supervisory positions in previous jobs, after he was hired by Coca-Cola he was told he could expect a promotion to a supervisory position. However, he was never given a proper chance to achieve this promotion.

177. In June 2008, two months into his work at Coca-Cola, there was an open supervisor position that Mr. Sanchez applied for. Mr. Sanchez had a good first interview for the position, and then was scheduled for a second interview with white Director of Operations David Prestipino on a Saturday. This Saturday interview was cancelled, and then an interview was scheduled on Monday afternoon, right before his night shift started. Since Mr. Sanchez was commuting from another job to his job at Coca-Cola, he arrived slightly late for the interview. Even though Mr. Prestipino was aware that he could be late because of his second job, he refused to interview Mr. Sanchez. Mr. Sanchez never received the interview nor a chance to continue pursuing this position.

178. Not only did being slightly late to the interview cost him a chance at a promotion, but it also unfairly earned Mr. Sanchez the scorn of the Coca-Cola managers. Right after this occurred in June 2008, Mr. Sanchez was assigned away from driving the forklift, which is considered a desirable job, to pallet repair, which is known as one of the dirtiest and most physically demanding roles in the factory. He was also given extra work outside of his job description. To Mr. Sanchez's knowledge, white workers are seldom if ever assigned to pallet repair, and are never given extra work beyond their job descriptions.
179. Mr. Sanchez is aware that when another employee asked plant manager Chris Wedderburn why Mr. Sanchez was always assigned to pallet repair, despite being a "smart guy" with supervisory experience, Mr. Wedderburn replied: "Jose [Sanchez] was brought in to be a supervisor, but he missed his interview. He's irresponsible."
180. In addition to the difficult and demeaning job assignments, Mr. Sanchez has also had to deal with casual racism and harassment from supervisors. For example, his white supervisor, George Gadaj, consistently bothers and scrutinizes his work and the work of the only other Hispanic worker on his shift, without treating white workers the same way. Mr. Sanchez has also seen Mr. Prestipino saying things like, "come here, boy, come here, boy," to Hispanic supervisors.
181. Further, because Mr. Sanchez drives a BMW to work, his managers have shown jealousy towards him that has led to especially close scrutiny. He has overheard supervisor Joe Aemesigeo say that Mr. Prestipino wants him to scrutinize "the guy in the red BM," referring to Mr. Sanchez.

182. An egregious example of this unfair scrutiny occurred on January 30, 2010, when Mr. Sanchez was severely disciplined and nearly terminated for an incident in which he did nothing wrong. That morning, Mr. Sanchez took about 18 minutes for his 15-minute break by going to his car and taking a nap from 6:09 AM to 6:27 AM.
183. When Mr. Sanchez returned, dispatcher John Rossi and Mr. Aemesigeo were looking for him, and when he told Mr. Rossi that he was only gone for 20 minutes, Mr. Aemesigeo said “that’s a fucking lie.” Mr. Aemesigeo claimed he personally saw that Mr. Sanchez was on break for more than 30 minutes. However, Mr. Sanchez had witnesses who were talking to him in the plant at 6:00 AM. He also found out from punch-in records that Mr. Aemesigeo only arrived at the plant at 6:18 AM, meaning Mr. Aemesigeo could not have observed Mr. Sanchez leaving for break.
184. At the time, Mr. Sanchez was told that he could expect a verbal warning for the incident. However, two days later, plant manager Mr. Wedderburn informed him that he was suspended pending investigation and possible termination. Mr. Sanchez’s shop steward warned him that Mr. Prestipino wanted to “make an example out of him.” No investigation was ever done nor any witnesses ever called to corroborate Mr. Aemesigeo’s accusations.
185. Mr. Sanchez was soon informed that he had the choice between going to arbitration and possibly losing his job, or signing a agreement admitting to taking a longer break. Fearing the loss of his job, he signed the agreement and received

a “last chance warning” report, meaning that any further disciplinary action could lead immediately to his termination.

186. Mr. Sanchez is not aware of any other workers who ever been suspended, or forced to sign a “last chance” agreement, for taking a longer-than-allowed break, which Mr. Sanchez did not even do. Indeed, Mr. Sanchez is aware of at least 15 other employees who have been caught taking longer breaks, but received only warnings or no disciplinary action at all.

187. In November 2010, Mr. Sanchez was subject to another discriminatory incident. Due to a faulty punch-in device, Mr. Sanchez was not paid for a day in which he actually worked, since the company claimed he was not present. Mr. Sanchez’s supervisor, Mr. Gadaj, lied and said that Mr. Sanchez was a “no-show” for that day, even though he saw him working that day. Manager Mr. Wedderburn also claimed that Mr. Sanchez was lying about working that day.

188. Mr. Sanchez has proof from the 11 PM manpower sheet from that day, which lists his name, that he was present. The 6 AM manpower sheet on the next day does not show his name, but he believes it was tampered with to remove his name, as the list of employees in the warehouse where he works is entirely empty. Despite this evidence, Mr. Sanchez was still accused of lying and never paid for his day of work.

189. The discriminatory treatment not only harmed Mr. Sanchez financially in terms of the denial of promotion and lost wages, but has caused him significant emotional harm as well. He suffers from high blood pressure, paranoia, and anger issues because of the unfair scrutiny and disciplinary actions at work.

Isaac Olabanjo

190. Mr. Olabanjo, a black Nigerian-American, has been employed by Coca-Cola since June 1998, first as a merchandiser and driver and since 2001 as a production worker. Over the years, he has been commended for his hard work and superior job performance at Coca-Cola.
191. Since 2006, Mr. Olabanjo has tried to apply for three promotions to positions for which he was fully qualified, but each time has been rejected in favor of white candidates. Indeed, with a bachelor's degree and a master's degree, Mr. Olabanjo is more qualified based on education than the other candidates for these positions. He believes this represents a pattern of racial discrimination that has prevented his advancement in the company.
192. In 2006, there was an open position in the quality control section of the Maspeth plant to which Mr. Olabanjo tried to apply. He contacted the quality control manager, Neemar Subash, and expected to take a test to be considered for the position. However, he was never given the test or the chance to proceed in applying.
193. Mr. Olabanjo later found out that his supervisor, Kevin Masters, a white man who is known for his racist attitude, spoke negatively to Mr. Subash about Mr. Olabanjo. Mr. Masters complained that Mr. Olabanjo was unwilling to work overtime because one time Mr. Olabanjo had turned down a request to work overtime due to taking college courses that conflicted with the scheduled work. Mr. Olabanjo did not believe this criticism was fair, as he is known as one of the

most consistent and hard-working employees at the plant, but it was sufficient to prevent him from being considered for the quality control position. He found out later that a white worker was given this position.

194. In April 2009, Mr. Olabanjo applied for an open truck-checking position. The warehouse foreman initially told him that he was highly recommended for the position and that that job was “pretty much his.” Mr. Olabanjo was given a training manual and verbal training for one day, and expected to continue at the job. However, management never confirmed him for the position. He later found out that a white employee received the position.
195. In August 2010, Mr. Olabanjo applied for an open position as the warehouse counter, and took the required test for it. At the time, he was told he was the only candidate applying for the position, and expected to receive it. However, for several weeks, the supervisor never gave him back his test results nor any news about whether he would get the position. Subsequently, a Hispanic employee with less seniority than Mr. Olabanjo applied for and received the position. He only held the position for one day before quitting. Since then the position remains unfilled. Once again, Mr. Olabanjo was never given an explanation for why he did not receive this position.
196. Due to discriminatory decisions by his supervisors, after 10 years Mr. Olabanjo remains unable to advance past his current position, despite his qualifications and multiple applications to higher positions in the company.

James Barnes

197. Mr. Barnes, a black American, has been employed by Coca-Cola since 1998 as a merchandiser and, since September 2011, as a truck driver.
198. Despite temporary assignments to let him drive, and five attempts to apply for a truck driving position, Mr. Barnes was turned down in 2009 and 2010 for a driving position. Based on his licensing and years of seniority, Mr. Barnes was more qualified than the white workers who were hired, but due to discriminatory supervisors he was never given a chance to advance in the company.
199. In May 2009, Mr. Barnes applied for three open positions as bulk driver, side loader driver, and refrigeration driver. He was temporarily given a job as a truck driver as part of the company's summer hire for drivers, because the summer is the company's busiest season. However, in the fall, he was denied a chance to continue as a driver in any of the jobs he applied for.
200. The same pattern repeated itself in 2010, when Mr. Barnes applied for two open positions as bulk driver and side loader driver. He served as a driver during the summer hire period, but was rejected for a permanent position in the fall.
201. Based on the seniority system, Mr. Barnes should have received these jobs over the drivers who were actually hired, who have fewer years of seniority than him. In addition, Mr. Barnes holds a Class A driver's license, which qualifies him to drive trucks of all sizes, while all but one of the drivers hired hold only Class B licenses that restricts them from driving certain trucks.
202. In fact, during the off-season, Mr. Barnes has often been asked to drive tractor trailer trucks because he holds a Class A license and the permanent drivers

do not. However, he has not received extra pay for this, because his position was still a merchandiser and not a driver.

203. The white supervisor in charge of bulk driving, Patrick Roodey, is known as a racist who frequently refers to “niggers” in his language. In 2009, Mr. Barnes was passed over for a Caucasian driver with much less experience than him for the bulk driving position.

204. Upon information and belief, the employee hired for the bulk driving position in 2011 was a driver who had a DWI on his record and had been fired previously from Coca-Cola. Mr. Barnes believes this worker was in fact brought back just to prevent him from attaining this position.

205. As for the side loading and refrigeration driving positions, Mr. Barnes is aware that the supervisor in charge, Andre Booth, has a personal animus towards him. He has been told by another employee that Mr. Booth had once said, “As long as I’m here, James [Barnes] won’t advance”. Mr. Barnes believes that Mr. Booth, who is Jamaican-American, has discriminated against him because of his black American nationality and because of his friendship with Aaran Faust, another black American with whom Mr. Booth has had problems.

206. Mr. Booth claimed the reason why Mr. Barnes did not receive a permanent driving position was due to his accident record. However, this argument ignores the fact that Mr. Barnes has been allowed to drive during the summer without incident, and has been asked to drive whenever they need a Class A driver throughout the year.

207. In the summer of 2011, Mr. Barnes once again was given a summer driving position. In September 2011, with the intervention of his union representative, he was able to secure a permanent position as a side loader driver. However, the three-year delay in achieving this position means that Mr. Barnes is at the bottom of the seniority list among drivers, meaning he is more frequently assigned to the lower-paying “helper” position rather than actual driving positions, and will be the first fired if there are lay offs.

Johnny Small

208. Mr. Small, a black American, was employed by Coca-Cola from 1998 to 2003 as a merchandiser, and has been employed as a production associate from 2003 onwards.

209. From the start of his employment, Mr. Small has faced discrimination in his opportunities to advance, assignment of work duties, and disciplinary actions from supervisors.

210. Between 1998 and 2003, Mr. Small tried four times to apply for a position as a production worker, which has higher pay than his job as a merchandiser. Against union policy, however, the company hired workers with less seniority than Mr. Small or new workers from outside. It took five years before he was finally given a position as a production associate in 2003.

211. Throughout his employment, Mr. Small has been assigned to undesirable tasks that white employees do not have to do, such as cleaning. Frequently, he is ordered to do cleaning when white workers with less seniority are not ordered to do so, or to clean up messes that white employees caused.

212. For example, on July 15, 2007, a white supervisor told Mr. Small to relieve a white worker, Kevin McKim, on his machine so Mr. McKim could go to lunch. The work area was very dirty, and the supervisor ordered Mr. Small to clean it, rather than Mr. McKim, who made the mess in the first place. If the roles were reversed, Mr. Small certainly would have been delayed from going to lunch to clean the area first.
213. Mr. Small has had to deal with harassment and hostility from his white supervisor, Manny. For example, while working on Easter Sunday in 2008, Mr. Small tried to leave early because he was feeling ill, but Manny did not want him to leave. Manny threatened Mr. Small with revenge when he left anyway, saying “payback is a bitch!” Mr. Small went to white manager Debra Babic to complain two days later, but she dismissed this incident.
214. On March 9, 2011, Mr. Small was telling Manny and another worker that he was to be relieved for lunch. Manny pulled his zipper on his pants down, and exclaimed “I got your lunch right here!” Mr. Small did not find this amusing, but Manny was never reprimanded for his actions.
215. Mr. Small has had to deal with heightened scrutiny from his supervisors whenever he takes a break or goes to lunch, to which white workers are not subjected. In 2010, white supervisor Joe Manuzza falsely accused Mr. Small for taking a 90 minute lunch instead of the regulated 30 minutes, even though Mr. Manuzza saw him leave just 30 minutes before. Mr. Joe Manuzza has also reprimanded Mr. Small without cause whenever he takes a break for a cigarette, which he does not do for white workers.

216. On June 5, 2010, manager Ms. Babic gave Mr. Small a disciplinary warning for taking a break longer than 10 minutes, though he only took a 10 minute break and she was not present to see him come or leave. And in April 2011, Mr. Manuzza made Mr. Small come back from his lunch break early to prove to him that he not taken a longer lunch break than allowed. Mr. Small was able to prove this by showing the timestamp on pallets he had stamped before going on break. To date, this type of unfair scrutiny persists for Mr. Small whenever he takes his scheduled breaks.

217. The discriminatory discipline has also extended to numerous cases when mistakes or accidents have occurred at work, even when Mr. Small was not to blame for them. For example, on December 18, 2008, Mr. Small was blamed for a pallet of water bottles falling when he was operating the forklift, even though another worker was responsible for securing them to his lift. Mr. Small was given a disciplinary “coaching lesson” for this. But the next day, when white worker Billy Depallo dropped two pallets of cans while operating the forklift, he was not written up or reprimanded in any way.

218. On November 26, 2010, a white worker named Joe Rosalia put the wrong bottles on the raw material line, and Mr. Small then relieved him on that line. When the managers discovered that the wrong bottles were on the line, they blamed Mr. Small for the mistake and for the loss in product. On December 13, 2010, Mr. Small received a disciplinary report and “coaching letter” for the incident.

219. Mr. Small testified that he was not responsible for putting the wrong bottles on the line, and the investigation could not prove he was the one who made the mistake. Manager Ms. Babic even wrote on the report that “the issue could not be fully substantiated ... therefore this incident is null and void.” Despite Ms. Babic’s admission, the disciplinary report was still kept in Mr. Small file. When Mr. Small asked why it would remain in his file, and why white worker Mr. Rosalia was never investigated, he received no answer.

220. The unfair discipline, heightened scrutiny, and harassment from supervisors have caused Mr. Small significant emotional problems. He has suffered from anxiety and headaches, and often feels like he has to force himself to go to work despite the prejudice and negativity he is subjected to there.

Luis Rodriguez

221. Mr. Rodriguez, a Hispanic American, has been employed by Coca-Cola since April 1997 as a production associate at its Elmsford branch.

222. Throughout his employment, Mr. Rodriguez has faced discrimination in his assignment of work duties, accommodations for his medical conditions, and opportunities for advancement.

223. Since 2000, Mr. Rodriguez has kept daily manpower lists that show systematic racial discrimination in the assignment of duties at the plant. Black and Hispanic workers are frequently rotated off of machines and assigned to the worst tasks in the plant. These include cleaning and pallet repair, the latter involving the manipulation and cleaning of dirty and heavy pallets. Meanwhile,

white employees work on the easiest machines to operate, such as the depalletizer, which requires simply cutting a strap and pressing a button. They are also allowed to stay at these positions for months or years in a row, which lets them learn the machines well and operate them with ease.

224. The seniority system is supposed to govern what positions workers receive, with senior workers attaining the more desirable tasks. This system has been ignored, however, when minority workers have more seniority than white workers. Mr. Rodriguez can show from these manpower lists that he has consistently been given the most physically demanding and undesirable positions despite having more seniority than many of the white workers on easier positions.

225. Through his years of work, Mr. Rodriguez has had to deal with his and his family's medical problems, to which Coca-Cola has shown little compassion or accommodation. In 1998, his mother was hospitalized in Rhode Island, and Mr. Rodriguez needed to make frequent trips to take care of her. The company never informed him about being able to use the Family and Medical Leave Act provisions to take time off to care for her. Mr. Rodriguez requested a transfer to a Massachusetts branch of Coca-Cola so he could be closer to his mother, but the white plant manager John Nickel refused to sign off on his transfer simply because Mr. Rodriguez had once made a mistake while running a labeling machine. He requested a transfer again a few months later, and was again denied.

226. It was only in 2000 that Mr. Rodriguez learned from someone outside the company that he could apply for FMLA. After a very difficult process, he managed to obtain FMLA leave time to take care of his mother. However, soon

afterward he was warned by Human Resources manager David Tipton that, because he was taking FMLA time, “the company was out to get him.”

227. Since 2005, Mr. Rodriguez has been suffering from medical problems, including shingles, kidney stones, and hernia surgery, which require him to take time off from work. Despite his legitimate medical problems, this has given him an unfair reputation of not showing up to work, which has led to increased scrutiny and difficult work assignments whenever he returns to work after an illness.

228. For example, the company has been aware that Mr. Rodriguez takes a medication for his kidney stone condition that can cause drowsiness. However, since 2005, he has often been assigned to a “case turner” position, which is a very monotonous task that requires him to monitor and manipulate rows of soda for hours at a time. Mr. Rodriguez has often noticed white managers sitting directly above him on a catwalk while he is operating this machine. He believes that he is put in this position because his supervisors want to catch him making mistakes due to the medication he is taking.

229. Mr. Rodriguez has also been assigned to operate a forklift while he is taking medication that causes drowsiness. While operating the forklift, he has to be especially careful to avoid an accident that can hurt others or himself. Numerous times, he has pointed out the danger of assigning him to the forklift, but his white supervisors have either ignored the danger or willfully allowed it in hopes of catching Mr. Rodriguez making a mistake.

230. Several times, Mr. Rodriguez has requested an easier position due to his physical conditions, such as operating the depalletizer or labeler, but has been denied every time. In part due to the lack of accommodation, Mr. Rodriguez has been involved in several major accidents at work. In 2005, he had an accident that led to surgery on his wrist. Later that year, he had another accident where he fell while pulling a tank, hit his head, and lost consciousness, which led to a 7 month disability leave.

231. This lack of accommodation for Mr. Rodriguez is in contrast to accommodation given to white workers, such as Anthony Gianatiempo, who developed carpal tunnel syndrome in 2004. For seven years since then, Mr. Gianatiempo has been assigned every day to the depalletizer, generally considered the easiest task in the plant. Other favored workers have also found similar accommodations whenever they have physical conditions that require lighter duty.

232. The discrimination against Mr. Rodriguez has also extended to his opportunities to advance. In 2008, Mr. Rodriguez applied to an open position in the lab, and had more seniority than all other applicants. To prevent him from attaining this position, the management created a very difficult test that had never been administered to previous applicants. Mr. Rodriguez was given this test in front of two supervisors, and did not pass. The other applicants, however, were not monitored when they took the test, and may have received outside help. The worker who was eventually hired is known as one of the favorites of the managers.

233. Mr. Rodriguez has also faced discrimination in his pay. When Mr. Rodriguez misses a day of work during the week, he is put on a “make up” day on Saturday, and paid at his normal rate since he has not reached 40 hours of work that week. White workers, however, who miss a day during the week and work on Saturday are paid at the overtime rate for their Saturday work, even if they have not reached 40 hours of work that week. Whether overtime salary is paid is completely at the discretion of the white managers, who have abused this system to pay white workers at the overtime rate but not minority workers.

234. In recent years, the pattern of discriminatory treatment has continued for Mr. Rodriguez. On September 23, 2010, Mr. Rodriguez had chest pains while at work, and drove himself to the emergency room. Later, he found out he was given a disciplinary write up for leaving work early despite his legitimate medical reason. He submitted a grievance over this, but found out in December that the managers in charge rejected his grievance. And on October 13, 2011, a white worker named Jeffrey Cavigliano complained to supervisors that Mr. Rodriguez was 5 minutes late relieving him. To punish him, the white supervisors moved Mr. Rodriguez off of his machine and put him on pallet repair the next day.

235. Years of discriminatory treatment at the company have exacerbated Mr. Rodriguez’s existing health conditions and caused him severe anxiety and depression. He believes that the system of racist favoritism poses a threat to his physical and emotional well-being.

Segunda Lopez

236. Ms. Lopez, a Hispanic woman, has been employed by Coca-Cola since 1998 as a production associate.
237. Over the years, Ms. Lopez has suffered from discriminatory treatment in terms of the assignment of her work duties. Because she has not complained about her mistreatment, she has often received the most undesirable, demeaning, and harmful tasks, which white co-workers do not have to do. Ms. Lopez has also been denied proper attention after being injured or sick at work, subject to verbal abuse, and unfairly placed in a probationary period after a transfer to another plant.
238. From the start of her work at Coca-Cola, Ms. Lopez has been subject to discriminatory treatment in terms of her training. While white employees were allotted free time to train to use the machines, Ms. Lopez had to choose to use her break or lunch time to undergo training.
239. In or around 2000, Ms. Lopez was unloading a truck when she strained her back. When she informed her white supervisor about this, he told her that she should just keep working, and that if she kept complaining her husband would leave her because she “wasn’t good for anything.”
240. In 2000, when Ms. Lopez was assigned to work in the recycling room, she was told that she was expected to process an entire truck, with 24 pallets, every day. Her white co-workers, however, were only expected to process 4 or 5 pallets per day.

241. Once in 2000, Ms. Lopez was going to the bathroom for five minutes when a supervisor went in to check up on what she was doing. Upon her knowledge, this type of monitoring does not occur for white employees.
242. In 2006, Ms. Lopez fell ill one day at work, and was vomiting into a plastic bin when white foreman Elizabeth Camancho came by. Instead of offering her medical help or telling her to stop working, the foreman simply yelled at her to “keep away from me.” Ms. Lopez eventually reported this incident to her shop steward, but because her shop steward was Ms. Camancho’s fiancé, nothing was done. Another time in 2007, Ms. Lopez injured her hand when she fell. Instead of giving her proper medical attention, the supervisors only gave her a cold can of soda to put on her wrist.
243. Between 2006 and 2007, plant management instituted a new policy for the can-filling machine, which was causing carpal tunnel syndrome for its operators. To prevent repetitive stress injuries, no workers were supposed to operate the machine for more than three days per week. Ms. Lopez, however, was assigned to the machine for several weeks at a time without interruption, and hence subject to potential injury. At the same time, the supervisors followed company policy in not assigning any white employees to operate this machine more than two days per week.
244. In 2007, Ms. Lopez was operating a machine when foreman Ms. Comancho asked one of her white co-workers, Diane Monanique, to do cleanup work. Ms. Monanique responded by saying, “I’m too white to do cleanup.” To her amazement, Ms. Lopez was then taken from her station and made to do the

cleanup work, while Ms. Monanique replaced her at the machine. This egregious example exemplifies the type of racial favoritism that the white supervisors show toward white employees.

245. This was not the only time Ms. Lopez has been taken off her normal duties to do cleanup or other “dirty” work. In the past few years, she has frequently been taken off a machine to work cleanup when there are spills or accidents, which white employees do not have to do.

246. In 2010, Ms. Lopez applied to transfer to another branch where there were open positions. Eventually, Ms. Lopez was granted her transfer, but to her surprise, at the new plant she was put on another probationary period. Ms. Lopez is not aware of any white employees who were placed on a probationary period after a transfer, but knows of several other black and Hispanic workers who were.

247. To the present day, Ms. Lopez continues to suffer from discriminatory treatment from her white supervisors at the new plant, who continue to give her the most undesirable and potentially harmful work assignments.

David Alvarez

248. Mr. Alvarez, a Hispanic American, was employed at Coca-Cola as a production associate from 2009 to his termination in June 2011. Mr. Alvarez is the son of co-Plaintiffs Segunda Lopez and Luis Rodriguez.

249. During his employment at Coca-Cola, Mr. Alvarez was discriminated against in the assignment of duties. Because he would sometimes complain about the discriminatory treatment, and because he was the son of Luis Rodriguez, he was made into a target for retaliation. The end result was his termination based

allegedly on his poor attendance record, even though white workers with much worse attendance records continue to work at the company.

250. Mr. Alvarez began working in 2009 at the Maspeth branch of the company. Even though he quickly learned how to operate all of the machines, Mr. Alvarez was frequently taken off the machines to do cleaning work in the bathroom or around the warehouse. At other times, he would be put on the Line 1 filler machine for weeks at a time, even though workers are only supposed to operate it for at most three days in a row because of how physically demanding it is.

251. Unlike his mother, Ms. Lopez, Mr. Alvarez would complain to his supervisors when he was taken off of a machine to do cleaning or put on a difficult machine for too long. These complaints did not improve his situation, but instead made him a target for retaliation.

252. In the summer of 2010, Mr. Alvarez and Ms. Lopez applied for a transfer to the Elmsford branch, located in Westchester County, because they had moved upstate and it was closer to their home. When they arrived at the Elmsford facility, both lost their seniority positions and were put on a probationary period along with all the new workers. Mr. Alvarez is aware that only minority workers are put on probationary periods when they transfer, while white workers are not put on probationary periods after a transfer.

253. After Mr. Alvarez's 90-day probationary period at Elmsford, supervisor Garfield Davey complimented Mr. Alvarez on his work and wrote a positive evaluation. However, the managers decided not to keep Mr. Alvarez at the end of

the probationary period, and sent him back to the Maspeth branch. Mr. Alvarez believes the reason he was not retained despite his excellent performance was because his father, Mr. Rodriguez, also worked at the Elmsford plant and was generally disliked by the white management.

254. After his return to the Maspeth branch in Queens, Mr. Alvarez had to commute 66 miles to work every day from his home in Putnam County. Despite his best efforts to move closer, which included living with relatives and later renting his own apartment in the Bronx, Mr. Alvarez was sometimes late to work. He eventually received disciplinary warnings and a “final written warning” in 2010 and 2011 for his tardiness. Even though some white workers are frequently late and have poor attendance records, they are not disciplined like Mr. Alvarez was.

255. In June 2011, Mr. Alvarez was suspended from work pending an arbitration for his termination. In the previous quarter, he had been late 7.3% of all days, which is above the 7% lateness and absence limit that Coca-Cola allows. In August 2011, he lost at his arbitration hearing, which confirmed his termination.

256. However, Mr. Alvarez is aware of many white employees who have tardiness and absences greater than 7% and are still employed at the company. Because they are favored by the company, these workers often have escaped with only disciplinary warnings.

257. The workers’ union, which Mr. Alvarez believes has been co-opted by the company, was completely unhelpful for him during the arbitration process. The

union in fact recommended him to resign voluntarily, even though that would mean he would be denied unemployment benefits.

258. Mr. Alvarez has suffered both financially and emotionally from his termination. He believes that had the supervisors not blocked his permanent transfer to the Elmsford branch, he never would have had the lateness problems that led to his termination.

Franklin Auld

259. Mr. Auld, a black American, has been employed as a production associate at Coca-Cola since September 1996.

260. Throughout his employment, Mr. Auld has faced discrimination in the assignment of his duties and in harassment from supervisors.

261. Since the start of his employment, Mr. Auld has generally been assigned to the least desirable and most physically demanding positions. These include pallet repair and operating the box maker, the latter located in a very hot area with no ventilation and using ink that makes Mr. Auld nauseous. Meanwhile, white workers with less seniority than Mr. Auld are given duties at easy-to-operate machines.

262. Mr. Auld has also faced discriminatory harassment and hostility from white supervisors. For example, in 2001, while Mr. Auld was operating a machine, white supervisor Paul Weiss asked him to switch to a less desirable position. When he asked why he was being switched, Weiss threatened Mr. Auld, yelling "Don't fuck with me, because you don't know who you're fucking with!"

263. In April 2004, a white worker named Bobby Dowd, Jr. was suspended for stealing promotional bottle caps. Mr. Dowd lied to management, falsely accusing Mr. Auld of also being involved in his scheme to steal the caps. Mr. Dowd was known as a racist who frequently called Mr. Auld a “monkey.”
264. The white managers never asked Mr. Auld whether he was involved with the theft, but since this incident have subjected him to intense scrutiny and monitoring. White supervisors and foremen frequently follow him around and observe him while he is working on machines. Mr. Auld has heard from other workers that management is “watching him.”
265. One day in 2007, Indian plant manager Steve Mahabir, who is known to be gay, started rubbing Mr. Auld’s chest and shoulders while at work. Mr. Auld felt extremely uncomfortable about this incident, but, fearing reprisal, did not report the incident to management. Mr. Auld later discovered that there were frequent complaints about Mr. Mahabir sexually harassing other employees.
266. Also in 2007, white supervisor Kevin Masters, who is known to be rude and discriminatory to black workers, yelled at Mr. Auld for not wearing a beard net while operating a machine, while Mr. Masters himself was not wearing one. Mr. Auld asked why he had to wear one when Mr. Masters did not. In anger, Mr. Masters violently flipped over an empty barrel and yelled to Mr. Auld, “pick it up!” Mr. Masters was never reprimanded for this incident.
267. In 2011, white supervisor Randy Santos became angry at Mr. Auld over a minor incident where he did not submit some paperwork. Mr. Santos put his hand in Mr. Auld’s face, and yelled, “you didn’t turn in your paperwork!”

268. Later in 2011, white manager Debra Babic falsely accused Mr. Auld of not wearing a seat belt while he was operating a forklift, even though he was actually wearing it. This resulted in a disciplinary warning being written for Mr. Auld.

269. In recent months, Ms. Babic has frequently moved Mr. Auld from the machines to the most undesirable tasks in the plant, while letting white workers with less seniority remain at their easier positions. In or around October 2011, Mr. Auld was taken off of training on a machine to be put on pallet repair and the box maker. In December 2011, Mr. Auld asked his supervisor for a pair of gloves, and his supervisor harassed him about it before finally throwing the gloves at him.

270. Mr. Auld has suffered emotionally from the years of discriminatory harassment, scrutiny, and assignment to the worst positions. He believes it is grossly unfair for him to suffer these types of mistreatment even after diligently working for Coca-Cola for 15 years.

Kishia Bright

271. Ms. Bright, a black American, was employed by Coca-Cola as a merchandiser from 2003 to 2006, from 2006 to 2009 as a production associate and quality control technician, and from 2009 onward as an inventory control counter.

272. Since the start of her employment, Ms. Bright has been subject to discrimination in her opportunities to advance, harassment from supervisors, and retaliation for her complaints. Despite discrimination at every step along the way, Ms. Bright has managed to achieve several promotions through her hard work, but currently still faces mistreatment from her white supervisors.

273. In 2004 and 2005, Ms. Bright unsuccessfully tried to achieve a production worker position, which pays approximately \$10 per hour more than the merchandising position she was in. During the summers of those years, she was allowed to work as a production associate, and was given the worst tasks in the plant during those probationary periods. Each year, she and another black woman were the only workers rejected for a permanent position after the summer was over.
274. In January 2006, Ms. Bright finally achieved a permanent position as a production associate after a third attempt to apply for the position. However, two months later, her white supervisors tried to send her back to merchandising again, even though this was against her union contract. She lost a week of work at this time while she was proving through the union that they could not transfer her back.
275. In March 2007, Ms. Bright achieved another promotion to quality control technician at the Maspeth branch. Her daughter became sick soon afterward, and she had to take FMLA leaves to take care of her. These leaves made Ms. Bright the target of mistreatment and hostility from her supervisors.
276. In October 2007, Indian supervisor Bobby Neemar wrongly accused Ms. Bright of falsifying company documents after she had made some readings on carbon dioxide levels in soda. She never put in false readings, but the company refused to believe her testimony. Skipping all the intermediate disciplinary steps, the company immediately terminated her for this alleged infraction.

277. Ms. Bright was scheduled for an arbitration hearing two months later. Between her termination and the arbitration, because she was not paid, she lost her home and she and her children ended up homeless. At the arbitration, she was vindicated, as the company could not prove that she had falsified the documents. While she was eventually paid for the two month suspension, she still made less due to lost overtime, and had become homeless in the meantime.
278. In December 2007, on the first day Ms. Bright returned to work, the Indian plant manager Steve Mahabir blamed her for taking a long time to start the production line. This was due to her unfamiliarity with the new machines that were installed while she was away. However, Mr. Mahabir refused to listen to her explanation, and held a disciplinary meeting where she had to defend her job once again. She believes this discipline was in direct retaliation for her success at the arbitration hearing.
279. Over the next few weeks, Ms. Bright suffered increased negativity and unfair blame at her lab position. She wrote a letter to the company headquarters, Human Resources, and her supervisors complaining of her mistreatment, but she received no response. Within a month, Ms. Bright could no longer handle the stress and harassment, and left the quality control position to return to a production associate position, even though the latter paid less.
280. When she started working again as a production associate, she found that she was only assigned to the filler room, where the security cameras and front office are located. She was not allowed to be trained on any other machines. When she asked her supervisor why she was only allowed to work in the filler

room, the supervisor responded that he was told by white manager Debra Babic “to put you in the filler room so I can keep my eye on you.” This unfair scrutiny continued throughout her entire time working as a production associate.

281. On April 24, 2009, Ms. Bright was approached before work by foreman Juan Clark’s wife, who starting cursing at her and accusing her of “fucking” her husband. Ms. Bright, who had no relations with Juan Clark, told the woman that she was blaming the wrong person, and then reported the incident to Mr. Clark and other supervisors. Evidently in retaliation for embarrassing him, Mr. Clark took Ms. Bright off the depalletizer machine where she had been training for a few days. He then assigned her to a can filler machine, which is more difficult to operate and which she had never used before. Due to Ms. Bright’s lack of familiarity with the machine, she had difficulty operating it correctly, and her supervisors blamed her for her mistakes.

282. Two days later, Ms. Bright informed plant manager Pat Dixon about fearing for her safety from the incident with Juan Clark’s wife, and about being unfairly assigned to the filler machine. Mr. Dixon dismissed the latter claim, falsely saying that he had seen her working on that machine before, when she in fact had never operated it before. He then said that he would inform the security team about Mr. Clark’s wife in order to protect Ms. Bright. However, several days later Ms. Bright talked to the security manager, and he said he had never been informed about Mr. Clark’s wife. Since this incident, Ms. Bright has realized that the plant managers do not care about her safety at all.

283. In May 2009, Ms. Bright applied for one of the open positions in inventory control, which paid more and had steadier work than her production job. The filling of the positions was supposed to be done based on seniority. All of the applicants ahead of Ms. Bright on the seniority list, who were all white, were offered this position. When it came to her turn, however, the white managers said they could not take her because of “what had happened in the past” – referring to her termination and the fact that she had been “kicked out” of the lab. Ms. Bright argued that both reasons were illegitimate – that her termination had been overruled by the arbitration, and that she had voluntarily quit working in the lab instead of being kicked out.

284. Having no more excuses, the managers instead set up a “competition” wherein Ms. Bright and another applicant with less seniority than her would both train for the job, with the better applicant being hired. This type of competition had never been set up before, but the managers were trying their best to prevent Ms. Bright from getting the position. During the training period, the outgoing inventory worker Steve Mercurio would only give Ms. Bright the bare minimum of training, while providing more detailed training for the other applicant. Ms. Bright was also informed by co-worker Sandra Walker that the outgoing white workers Mr. Mercurio and Joe Rosalia said that Ms. Bright was “stupid” and “not smart enough for the job.”

285. Nevertheless, Ms. Bright tried her best to learn how to perform the inventory job, and promised to fight for it “to the end” if she did not get it.

Having no choice, since Ms. Bright was clearly the better applicant, the managers ended up giving her the inventory control position in September 2009.

286. However, immediately after getting the job, Ms. Bright became aware that manager Ms. Babic was trying her best to sabotage her work, through telling her supervisors to write her up for no cause. Over the next several months, Ms. Bright would be given disciplinary write ups for frivolous reasons, once for asking a supervisor for help because she did not know where some bottles of Sprite were, and another time for briefly not knowing where certain trays were.

287. In December 2009, Ms. Babic sent white supervisor Joe Manuzza, who is known to harbor discriminatory attitudes towards minority workers, to monitor Ms. Bright in the same office. When a new warehouse manager came in, Ms. Bright overheard Mr. Manuzza inform him that “she doesn’t want to do her tasks.”

288. Finally, in February 2011, Ms. Bright was written up one more time for not filling out a “blind count sheet” of materials unloaded from a truck, when in fact no workers ever filled out this sheet. She was given a “final written warning” after this incident. The only thing that saved her from more disciplinary action and possible termination was the arrival of the new warehouse manager, who put an end to the frivolous write ups.

289. Still, in recent months Ms. Bright has been subject to further negative treatment. Instead of letting her work in the main office, the white managers have moved her to a small, cold upstairs room that was previously only used for heating up food. There is a severe mold problem in the room, which has given

Ms. Bright migraine headaches and made her feel ill. She has complained about the mold problem to her managers, and asked for a heater, but her complaints have led to nowhere.

290. Ms. Bright has suffered severe emotional harm from years of discriminatory discipline, harassment, and retaliation. As described, she was once made homeless because of unsubstantiated accusations against her, and continues to suffer from unfair scrutiny and poor work conditions.

CLAIMS FOR RELIEF

291. Based on the foregoing, in subjecting Plaintiffs to unabated discriminatory comments, ridicule, harassment, and scrutiny, Defendant subjected Plaintiffs to a hostile work environment on the basis of their black or Hispanic race, in violation of New York State Executive Law §§ 290 et seq. and Title 8 of the N.Y.C. Administrative Code.

292. Based on the foregoing, in treating Plaintiffs differently than their similarly situated non-minority co-workers, assigning Plaintiffs the least desirable tasks, and disciplining and/or eventually terminating for conduct that non-minority co-workers were not disciplined or terminated for, Defendant discriminated against Plaintiffs on the basis of their black or Hispanic race, in violation of New York State Executive Law §§ 290 et seq. and Title 8 of the N.Y.C. Administrative Code.

293. Based on the foregoing, because of the Plaintiffs' good faith opposition to discriminatory practices, Defendant retaliated against Plaintiffs, in violation of

N.Y. State Executive Law §§ 290 et seq. and Title 8 of the N.Y.C. Administrative Code.

294. Coca-Cola intentionally committed, condoned or was deliberately indifferent to the aforementioned violations of Plaintiffs' constitutional rights.

Such deliberate indifference may be inferred in the following ways:

i. Defendant's custom or practice of discriminating against Plaintiffs based on their race and opposition to discriminatory practices. The discriminatory practices were so persistent and widespread that they constitute the constructive acquiescence of policymakers.

ii. Inadequate training/supervision was so likely to result in the discrimination that policymakers can reasonably be said to have been deliberately indifferent to the need to provide better training and supervision.

iii. Supervisors failed to properly investigate and address allegations of discrimination.

iv. Policymakers engaged in and/or tacitly condoned the discrimination.

WHEREFORE, the Plaintiffs demands judgment against the Defendant for all compensatory, emotional, psychological and punitive damages, lost compensation, front pay, back pay, injunctive relief, and any other damages permitted by law pursuant to the above referenced cause of action. It is respectfully requested that the Court grant the Plaintiff any other relief to which he is entitled, including but not limited to:

1. Awarding reasonable attorneys fees and costs and disbursements of this action;
2. Granting such other and further relief that to the Court seems just and proper.

Dated: 1/3/12

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