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PIA WILSON,

Plaintiff,

v.

NEW JERSEY TRANSIT; JAMES
SCHWORN; ANTHONY BAK; ED BAKSA;
and ROBERT LAVELL,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ESSEX COUNTY
DOCKET NO. L 94-17

Civil Action

**COMPLAINT
AND JURY DEMAND**

Plaintiff Pia Wilson (“Wilson” or “Plaintiff”), by way of Complaint against Defendants New Jersey Transit (“NJ Transit”), James Schworn (“Schworn”), Anthony Bak (“Bak”), Ed Baksa (“Baksa”), and Robert Lavell (“Lavell”) (collectively herein referred to as “Defendants”), says:

THE PARTIES

1. During all times relevant to this Complaint, Plaintiff Wilson was and continues to be an employee of Defendant NJ Transit as the term “employee” is defined by the New Jersey Law Against Discrimination N.J.S.A. 10:5-1, et. seq. (“LAD”). Ms. Wilson is an African-American female. Each of the individually named Defendants are male Caucasians.

2. The Defendant NJ Transit is an employer as defined by the LAD. During all times relevant to this Complaint, Defendant NJ Transit was and is the employer of the Plaintiff as that term is defined by the LAD.

3. During times relevant to this Complaint, Defendant Schworn, a Caucasian male, was an upper level manager of Defendant NJ Transit, with the current title of Deputy Chief Light Rail & Support Services, who participated in, encouraged, supported and aided and abetted the retaliation against Plaintiff for her complaints of race discrimination.

4. During times relevant to this Complaint, Defendant Bak, a Caucasian male, was an upper level manager and supervisor of Defendant NJ Transit, with the current title of Rail Planner, who participated in, encouraged, supported and aided and abetted the retaliation against Plaintiff for her complaints of race discrimination.

5. During times relevant to this Complaint, Defendant Baksa, a Caucasian male, was an upper level manager of Defendant NJ Transit, with the current title of Deputy General Manager of Maintenance for Rail Operations. He is the second in command in Rail Operations at NJ Transit and reports to Robert Lavell. Defendant Baksa participated in, encouraged, supported and aided and abetted the retaliation against Plaintiff for her complaints of race discrimination.

6. During times relevant to this Complaint, Defendant Lavell, a Caucasian male, was an upper level manager of Defendant NJ Transit in charge of Rail Operations at NJ Transit, with the title of Vice President/General Manager for Rail Operations, who participated in, encouraged, supported and aided and abetted the retaliation against Plaintiff for her complaints of race discrimination.

VENUE

7. Pursuant to Rule 4:3-2, venue is proper in Essex County because the events underlying Plaintiff's causes of action substantially occurred in Essex County, New Jersey.

The nerve center of Defendant NJ Transit's business operation is located in Essex County, and Plaintiff Wilson works in Essex County, New Jersey.

FIRST COUNT
(Retaliation In Violation of the LAD)

8. Plaintiff incorporates by reference all allegations of the previous paragraphs of the Complaint as fully as though they were set forth herein at length.

9. Plaintiff Wilson filed a Complaint alleging discrimination, harassment and retaliation based on race against NJ Transit and James Schworn, among others, on January 14, 2014. Wilson, et al. v. New Jersey Transit, et al. (Docket No. ESX-L-263-14) (hereinafter "Wilson I").

10. Discovery in Wilson I revealed a longstanding and intractable pattern and practice of discrimination, harassment and retaliation by white upper level managers, including Defendant Schworn, against African-American employees.

11. The discrimination, harassment and retaliation against African-American employees at Defendant New Jersey Transit is far reaching and documented. It includes the following types of discrimination, among others: unfair pay, unfair job assignments, unfair discipline, unfair promotion practices, unfair working conditions, and regular egregious severe and pervasive harassment.

12. The discovery in Wilson I also showed a relentless pattern and practice of retaliation against employees who complain about discrimination and harassment. The New Jersey Transit EEO and Human Resources Departments actually participate in, encourage, and aid and abet such retaliation.

13. The discovery in the Wilson I also showed that New Jersey Transit's outside counsel participated in attempts to suborn perjurious testimony favorable to Defendant Schworn.

14. After much of the discovery described above was filed in the Court in Wilson v. New Jersey Transit, New Jersey Transit agreed to pay \$3,650,000.00 to settle the race discrimination claims of seven plaintiffs.

15. After the settlement, Defendant James Schworn, one of the main perpetrators of illegal and racist behavior which cost the New Jersey taxpayers millions of dollars, was promoted and given a nicer office which he expensively redecorated.

16. Since the settlement in Wilson I, Defendant Schworn has instigated severe and pervasive retaliation against Plaintiff Wilson as described below. Schworn has conspired with his long-time, white friends - who have benefited from his racist behavior over his long-term of employment - to carry out the retaliation against Plaintiff Wilson.

17. As discussed below, prior to the settlement of Wilson I, Plaintiff worked at an office at the NJ Transit headquarters in Newark. Plaintiff had three supervisors report to her and 22 union workers reporting indirectly to her. She worked the normal business hours that other headquarters employees work. Since the settlement, Plaintiff Wilson has been forced to work in a warehouse facility, with her work day starting at 6:30 AM. Plaintiff no longer has any supervisors reporting to her and has lost 6 of her indirect reports. NJ Transit refuses to fill the 9 open positions. Instead, Plaintiff is required to do those jobs as well as her own, resulting in work days up to 12 hours, for which she receives no overtime. Defendant Schworn and his white friends regularly subject Plaintiff to degrading and sarcastic

comments, insubordination, intimidation, and unfair criticism. NJ Transit EEO and HR officers have refused to assist Plaintiff in any way despite her pleas to them for help.

18. African-American employees of Defendant NJ Transit have made numerous complaints of racial harassment and discrimination against Defendant NJ Transit and its upper level managers but Defendant NJ Transit refused to take prompt and effective remedial action.

19. Non-African-American employees at Defendant NJ Transit were and remain free to harass, discriminate and retaliate against African-American employees without fear of discipline from upper level managers, including but not limited to those managers in Defendant NJ Transit's EEO or Human Resources Departments, who actually participate in the covering up discrimination, harassment, and retaliation and who discourage victims from bringing claims.

20. Defendant NJ Transit's work environment was and currently is characterized by retaliation against African-American employees who complain about, resist and/or otherwise oppose this illegal conduct.

21. Defendants Schworn, Bak, Baksa, Lavell and others have utilized Defendant NJ Transit's EEO, Human Resources and ethics offices to cover up discrimination and to retaliate and punish persons who engage in protected activity.

22. Defendant NJ Transit's Human Resources and EEO office conspired and cooperated with the Defendants and their agents to cover-up and perpetuate this illegal conduct. Rather than preventing and remedying the illegal conduct, Defendant NJ Transit's Human Resources and EEO offices' actions and omissions encouraged Defendants to further engage in the retaliatory, discriminatory and harassing conduct. The various individuals who conspired and cooperated with the Defendants in the harassment, retaliation and

discrimination were rewarded by more favorable treatment, better opportunities and other forms of protection.

23. A corporate culture is permitted to flourish which inured to the benefit of non-African-American employees and to the detriment of African-Americans.

24. Plaintiff Wilson has worked for Defendant NJ Transit since January 16, 1990.

25. Wilson began her employment in the Rail Union (TCU), where she worked for fifteen (15) years before being promoted to Purchasing Specialist in February 2005.

26. As Purchasing Specialist, Plaintiff Wilson reported directly to Defendant Schworn.

27. On or about March 1, 2007, based on her superior performance, Wilson was promoted to a Purchasing Agent reporting to Defendant Schworn.

28. In or about August 2010, based on her superior performance, Wilson was promoted to Senior Purchasing Agent.

29. Beginning in December 2011, Wilson started reporting to Jose Rivera, who replaced Schworn as Senior Director of Procurement.

30. On or about October 25, 2011, Wilson filed a complaint with William Hemphill ("Hemphill"), Director of EEO, alleging race and gender discrimination in the disparate salaries in the Procurement Department.

31. In response to this complaint, Hemphill stated, "there was nothing [he] or anyone else could do. That was just the way it is at NJ Transit."

32. In a letter, dated January 31, 2012, Hemphill rejected Plaintiff Wilson's claims of discrimination and closed the matter based on the false finding that that the pay differences between white and African-American employees reflected longevity on the job.

This excuse was false. In fact, as just one example, a white employee, Debbie Golub, earned more than Plaintiff Wilson although Ms. Golub had less seniority in the Department and was less qualified.

33. On or about July 12, 2012, Plaintiff Wilson complained to Pat Bullock (“Bullock”), EEO Officer, about the ongoing harassment directed at her from the then Acting Director of Procurement Support, Teresa Russo (“Russo”), a Caucasian female.

34. Plaintiff Wilson described to Bullock the discrimination experienced by African-American employees by NJ Transit, which had yet to be addressed despite repeated complaints to Hemphill and others.

35. Once again, Defendant NJ Transit failed to address or remediate the discrimination.

36. As a result of these failures, on or about January 14, 2014, Plaintiff Wilson, along with seven other African-American employees at NJ Transit filed Wilson I in the Superior Court of New Jersey against NJ Transit and various individually named Defendants, including Defendant Schworn.

37. In Wilson I, Plaintiff and her co-workers or former co-workers described in detail the rampant racial discrimination, hostile work environment and retaliation that occurred at NJ Transit. For the sake of brevity, Plaintiff attaches hereto a true and correct copy of the Third Amended Complaint, filed on or about December 22, 2015, in Wilson I as Exhibit A. By way of background, Plaintiff incorporates by reference her allegations made therein as fully as though they were set forth herein at length.

38. On or about May 23, 2016, Plaintiff and six of her co-Plaintiffs in Wilson I settled their then-existing claims against Defendants for discrimination and retaliation that pre-dated the Settlement Agreement and Release.

39. However, since executing the Settlement Agreement in Wilson I on May 23, 2016, Plaintiff Wilson has been the subject of relentless retaliation and an on-going hostile work environment at NJ Transit.

40. Despite being told that Defendant Schworn would no longer have any contact with her, Defendant Schworn and his friends at NJ Transit, including the other individually named Defendants herein, have continued to retaliate against Plaintiff for her prior complaints, including those made in Wilson I, filed against Defendant Schworn and others.

41. Since settling her claims, Plaintiff has been ostracized by some of her white co-workers and has been the subject of an active campaign of on-going harassment, hostility, and retaliation against her orchestrated by Defendants.

42. By way of illustration, on or about July 7, 2016, Defendant Baksa falsely accused Plaintiff of starting an "email war" after she properly performed her job and raised concerns about overstocking inventory. Defendant Baksa as well as another employee who was on the email communications, Charles Tomaszfski, are friends of Defendant Schworn.

43. In May 2016, as Manager of Rail Procurement, Plaintiff worked at NJ Transit's corporate offices located in Penn Plaza, Newark, New Jersey.

44. At that time, Plaintiff managed three supervisors at NJ Transit's main rail warehouse located in Kearny, New Jersey, who were responsible for supervising twenty-two union rail employees working in the warehouse.

45. The Kearny warehouse contains close to \$100 million in rail inventory. It is the main warehouse used by NJ Transit for its rail operations. In addition, there are four storage facilities for additional rail inventory throughout New Jersey that Plaintiff is responsible for managing. Obviously, the three supervisors and 22 union employees are essential to the proper management of the rail inventory.

46. Following the settlement of Wilson I, Plaintiff's work load and working conditions were drastically and punitively changed.

47. In or about July 2016, one of the three lead supervisors in the main rail warehouse in Kearny was terminated. In or about August 2016, another lead supervisor was transferred to another position and location at NJ Transit. As a result of losing two direct reports, Plaintiff was required to, and did, assist the then-remaining supervisor, Dave Priore, in the main warehouse in Kearny at least one day a week.

48. Due to the drastic reduction in her direct reports Plaintiff also had to directly supervise the twenty-two union employees, who she previously had only indirectly supervised. Plaintiff was also required to, and did, all of her other job duties. Plaintiff asked for assistance, but her requests were denied by Defendants.

49. To date, these two supervisors' positions have not been filled, despite repeated requests by Plaintiff and her supervisor, Mr. Rivera. The failure to promptly replace the open positions or provide Plaintiff with assistance is retaliatory and discriminatory.

50. In or about November 30, 2016, the remaining lead rail warehouse supervisor, Dave Priore, retired from NJ Transit, having given notice many months before that he intended to retire. Prior to Mr. Priore retiring, Plaintiff and her supervisor, Jose Rivera, asked for additional assistance for Plaintiff in the Kearny warehouse, and asked that either

Mr. Priore's pay be increased so that he would not retire or that the three open lead supervisor positions be filled quickly since once Mr. Priore retired there would be no supervisors at all in the Kearny rail warehouse.

51. Defendant NJ Transit has purposely ignored the requests for assistance and for the vacant positions to be filled made by Plaintiff and her supervisor, Mr. Rivera, directly to Human Resources at NJ Transit, including to Debra Prato, the Assistant Executive Director of Human Resources at NJ Transit.

52. To date, the three supervisors' positions remain vacant and no assistance has been provided.

53. As further retaliation for Plaintiff's race discrimination lawsuit against NJ Transit, Plaintiff was transferred from her office at Penn Plaza to the Kearny warehouse on a full-time basis.

54. While Plaintiff previously worked the same hours as Defendants and other employees at the NJ Transit headquarters, now she must report to a warehouse at 6:30 a.m. and is required to work nine to twelve hours a day. Plaintiff is still required to complete all of her other job duties and responsibilities as the Manager of Rail Procurement.

55. There are currently an additional six (6) open and vacant employment positions which report to Plaintiff in the Procurement Department. New Jersey Transit refuses to fill those positions as part of its pattern and practice of retaliation against Plaintiff.

56. Due to the vacant three (3) supervisors positions as well as the other six (6) vacant positions, all of whom would report to the Plaintiff, she has been forced to work many hours of overtime, even though she is not paid for these additional hours. The situation has caused Plaintiff great stress, emotional distress and physical illness and sickness.

57. Plaintiff has been told by other employees that her current adverse working conditions, including the failure of NJ Transit to promptly fill the numerous vacant positions (9 in total), are because she is being “punished” and retaliated against by Defendants.

58. Plaintiff has also been subjected to open hostility and false complaints made against her by white employees, including Defendant Bak, who is friendly with Defendant Schworn and friendly with Teresa Russo, a former NJ Transit employee whose racist conduct was detailed in the Wilson I complaint and whose conduct was encouraged and protected by Defendant Schworn.

59. Defendant Bak, who reports to George Barbosa, the Acting Manager for the Planning Department at NJ Transit, has retaliated against Plaintiff since she settled Wilson I,
to wit:

- (a). ignores Plaintiff during weekly “materials” meetings;
- (b). is openly disrespectful to Plaintiff by talking over her;
- (c). is insubordinate to Plaintiff in front of others;
- (d). has been openly hostile and confrontational to Plaintiff during discussions, meetings and conference calls;
- (e). refuses to do assigned tasks or does not do them on a timely basis and is openly defiant to Plaintiff;
- (f). purposely does not follow proper materials and procurements procedures;
- (g). undermines Plaintiff’s authority and implements new procedures and systems without her authorization that are inefficient and had been previously rejected;
- (h). has needlessly increased inventory without authority;

(i). has repeatedly said to Plaintiff on a number of occasions that “Jim said to do it that way” – meaning James Schworn who was no longer in her Department and who was a named defendant in the prior lawsuit;

(j). has usurped Plaintiff’s authority and position and been openly disrespectful to her; and

(k). has gone so far as to spy and eavesdrop on Plaintiff’s conversations with other co-workers.

60. By late August 2016, Plaintiff had already complained to her supervisors about Defendant Bak’s retaliation.

61. For example, on or about August 30, 2016, Plaintiff had a conversation with her immediate supervisor, Jose Rivera, in the presence of another employee, Judy Bamber, a white female, about Defendant Bak’s continued hostility and disrespect for Plaintiff.

Plaintiff mentioned that Defendant Bak did not treat Ms. Bamber, a white woman, in the same disrespectful way that he treated Plaintiff, an African-American women. During that conversation, Plaintiff revealed that she was in the process of making a formal, internal EEO complaint with NJ Transit’s EEO department against Defendant Bak.

62. Shortly after that conversation, upon information and belief, Ms. Bamber disclosed to Defendant Bak that Plaintiff was going to file an EEO complaint against him.

63. Upon learning this, on August 30, 2016, Defendant Bak filed a false, internal complaint against Plaintiff.

64. On that same day, Plaintiff emailed Amy Herbold, the second in command to the Executive Director, Jose Rivera, her supervisor, and Debra Prato of Human Resources,

complaining about the continued hostile work environment, harassment and retaliation by Defendant Bak and others.

65. Shortly thereafter, on or about September 6, 2016, Plaintiff filed a formal, internal complaint of discrimination and retaliation, based on her race and gender, against Defendant Bak, with NJ Transit.

66. After the tragic rail accident at Hoboken train station on September 29, 2016, NJ Transit set up a Command Center in Orange, New Jersey. Plaintiff, an experienced, reliable, knowledgeable New Jersey Transit employee, was assigned to the Command Center for the Rail Procurement Department.

67. On the second day that Plaintiff was present at the Command Center, on or about October 4, 2016, Michelle Stiler, a white female Director for NJ Transit, who reports to and is friendly with Defendant Schworn, was present. During a conversation with others not involving Plaintiff but in her presence, Ms. Stiler had Defendant Schworn on the phone and then said to the group, "Jim said to do ... (and gives a directive from him)" – a reference to Defendant James Schworn.

68. A media representative for NJ Transit who was also present, in hearing the name of Defendant Schworn said, "Didn't he just get sued?" -- a reference to the Wilson I lawsuit. The media representative then sarcastically remarked, "What a great asset he is to the company." Others began to comment, but Ms. Stiler in support of Defendant Schworn, made a gesture and expression with her eyes for others to abruptly stop any further conversation and glared over at Plaintiff, who had said nothing. Ms. Stiler knew that Plaintiff was the lead plaintiff in Wilson I.

69. At another point, while Plaintiff was working at the Command Center, Mike Slack, the Assistant Executive Director of Information Support, who is a white male and is friendly with Defendant Schworn, in seeing Plaintiff at the Command Center, referred to her as a “dog” saying in front of other employees and Plaintiff: “Procurement brought out the big dog.”

70. Plaintiff made an internal EEO complaint against Mr. Slack referring to her as a “big dog” which is especially offensive and derogatory to women and African-American women.

71. In retaliation for her complaints, Plaintiff was excluded from any further involvement at the Command Center, despite being previously assigned to work there.

72. Later that same month, on October 31, 2016, Defendant Bak, in violation of New Jersey Transit policy and State law prohibiting government employees from engaging in campaign activity on State property during working hours, wore to work a tee-shirt in support of the then-Republican Presidential candidate, Donald Trump, with a depiction of the Democratic presidential candidate, Hillary Clinton, behind bars with a slogan along the lines of “lock her up.” In addition to his tee-shirt, Defendant Bak had a mask of Donald Trump on his head that he wore all day long at work. Most of that day, he wore it on top of his head. However, as Defendant Bak approached Plaintiff’s desk, he pulled the Donald Trump mask down over his face, covering his face entirely, except for his eyes, and Defendant Bak glared at Plaintiff through the Trump mask.

73. Defendant Bak purposely used the Donald Trump mask and tee-shirt to intimidate, harass and retaliate against Plaintiff. Given President-elect Trump’s offensive

remarks against minorities, African-Americans and women, and Bak's targeting Plaintiff with the mask, the tee-shirt and mask were offensive and harassing.

74. On or about November 3, 2016, Plaintiff filed another internal complaint against Defendant Bak for this incident. Plaintiff complained that the Trump face mask and tee-shirt, worn at work by Defendant Bak, a white male who already had a pending, internal complaint of race and gender discrimination filed against him by Plaintiff, was worn to purposely intimidate, harass and retaliate against Plaintiff, an African-American woman. Plaintiff also pointed out that Defendant Bak's actions on October 31, 2016 (a week before the Presidential election) were in violation of NJ Transit's (a governmental entity) policy against employees engaging in political activities at work.

75. The hostility and retaliation against Plaintiff continued throughout the fall and winter of 2016 and is continuing to this date.

76. For example, Defendant Lavell not only refuses to fill the nine (9) open positions within Procurement, but also continues to pile work upon Plaintiff, knowing that she is now doing the work for the three vacant lead supervisors in the warehouse, as well as her own job duties.

77. Apparently, NJ Transit has rewarded Defendant Schworn, a main catalyst in the payment of millions of dollars to settle race discrimination claims against him and NJ Transit. Not only has Schworn received a promotion, at a time when New Jersey commuters are experiencing poor service and a lack of modern safety equipment, Defendant Schworn is also redecorating his new office! As recently as December 19, 2016, Defendant Schworn instructed his subordinate, Juan Dimatteo, to put in a requisition for some \$695,000 in office furniture and construction renovations to the 10th floor where Schworn currently works,

which generated an email to Plaintiff and others that referred to her as the “default buyer,” even though Plaintiff had nothing to do with that work or the requisitions.

78. Despite Defendant Schworn being told not to have any contact with Plaintiff, he purposefully caused the requisition email to be sent to her as the “default buyer” and then directly sent Plaintiff and others an email sarcastically “thanking” her.

79. Defendant Schworn was, in fact, simply bragging to Plaintiff and others that, despite causing NJ Transit to pay millions of dollars in settlement, and millions of dollars to outside lawyers to defend his racist behavior, he was untouchable.

80. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

81. Despite Plaintiff’s internal complaints to Human Resources, the EEO office and others at NJ Transit about the hostility, discrimination and retaliation she has suffered and endured since she settled Wilson I, Defendant NJ Transit has done nothing to properly or promptly investigate her internal complaints, nor to stop the abusive, discriminatory and retaliatory work environment.

82. On October 25, 2016, Carla Elliot of NJ Transit’s EEO office told Plaintiff that her internal complaints against Defendant Bak would take up to “a year” to investigate, allegedly because of the lack of resources within NJ Transit’s EEO and Human Resources departments. Plaintiff made an internal complaint in August 2016. She filed a formal complaint again on September 6, 2016, and later supplemented her complaints on numerous occasions.

83. To date, Plaintiff has not been formally interviewed, nor have her complaints been investigated.

84. Previously, in connection with the discovery in Wilson I, it was revealed that Ms. Elliot – the person at NJ Transit who is charged with investigating employee complaints of discrimination, harassment and retaliation - stated that it was her policy not to investigate any complaints about behavior more than one year old, despite there being a two-year statute of limitations under the LAD, and despite the fact that New Jersey courts recognize the continuing nature of many discrimination, harassment and retaliation actions.

85. In contrast, after Plaintiff was falsely accused by Defendant Bak, Plaintiff was told that his internal complaint was being immediately investigated at the request of Debra Prato, a white female, who is the Assistant Executive Director of Human Resources at NJ Transit. Plaintiff, an African-American female, was told that EEO and Human Resources refused to investigate her race and retaliation complaint, yet a subordinate white male's complaint against her was immediately investigated.

86. On January 3, 2017, Plaintiff finally received a call from Ms. Elliot who explained that as a result of Plaintiff complaining to the Executive Director of NJ Transit about Elliot's refusal to investigate Plaintiff's complaint or racist retaliation, Elliott was going to investigate Plaintiff's internal complaints. This belated claim that Plaintiff's complaints will be investigated came only after Plaintiff complained directly to Steven H. Santoro, the new Executive Director for NJ Transit, and only after testimony at recent public hearings before a state legislative committee revealed numerous race discrimination and retaliation complaints by employees at NJ Transit that cost the taxpayers millions of dollars each year. It is a face saving gesture designed to dupe the legislature into thinking that NJ Transit actually does something about illegal conduct which violates the LAD and costs the taxpayers millions.

87. NJ Transit has become a place to park unqualified political patronage employees, a place of rampant racism where qualified and dedicated employees are marginalized and harassed, while politically connected white employees “work from home,” get undeserved pension enhancements, get undeserved raises, get undeserved promotions, and receive no consequences for poor work performance. The taxpayers and commuters who use NJ Transit pay for this corruption. Defendant NJ Transit is a cesspool of corruption and Human Resources and EEO are essential participants.

88. Despite her prior internal complaints that are now almost half a year old, NJ Transit had done nothing to remediate the on-going harassment and retaliation. Defendants and other harassers remain in the work place and continue to harass and retaliate against Plaintiff.

89. Defendant NJ Transit has failed to properly, promptly and independently investigate Plaintiff’s internal complaints of racial and gender discrimination, harassment and retaliation that she made against Defendants and others since she settled Wilson I.

90. As a direct and proximate result of Defendants’ conduct, Plaintiff Wilson has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and illness, exacerbation thereof, stress, humiliation, pain, damage to reputation, and harm to her career development.

91. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of retaliation against Plaintiff Wilson because of her internal complaints, all of which remain pending, and her prior lawsuit, Wilson I, for race discrimination in violation of the LAD, N.J.S.A. 10:5-1, et seq.

WHEREFORE, cause having been shown, Plaintiff Wilson demands judgment against Defendant NJ Transit and seeks the following relief:

- A. Compensatory damages for loss of wages and benefits, pension losses, pain, suffering, stress, humiliation, mental anguish, and emotional harm, personal physical injury/sickness and exacerbation of personal physical injury/sickness;
- B. Damages for harm to reputation and career development;
- C. Reimbursement for medical expenses;
- D. Punitive damages;
- E. Attorneys' fees and costs of suit;
- F. Injunctive relief requiring remediation of Defendants' discrimination and retaliation; and
- G. Such other relief as the Court may deem equitable and just.

SECOND COUNT

(Aiding and Abetting Discrimination Against Defendants Schworn, Bak, Baksa and Lavell)

92. Plaintiff repeats the previous allegations as if set forth herein.

93. The LAD prohibits conduct that aids and abets unlawful discrimination and retaliation.

94. Defendants Schworn, Bak, Baksa, and Lavell are all upper managers and supervisors at NJ Transit.

95. As upper managers and supervisors, Defendants are responsible for prohibiting discrimination and retaliation in the work place and responsible for implementing and adhering to effective anti-discrimination and anti-retaliation policies in the work place.

96. As set forth herein, Defendants Schworn, Bak, Baksa and Lavell engaged in active and intentional discrimination, harassment and retaliation against Plaintiff Wilson since she settled Wilson I.

97. As set forth herein, Defendants Schworn, Bak, Baksa and Lavell, acting alone and in concert, aided and abetted the discriminatory and retaliatory conduct.

98. As a direct and proximate result of Defendants Schworn's, Bak's, Baksa's and Lavell's conduct, Plaintiff Wilson has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, stress, humiliation, physical injury and sickness, and exacerbation thereof, pain, damage to reputation and harm to her career development.

WHEREFORE, cause having been shown, Plaintiff Wilson demands judgment against Defendants NJ Transit, Schworn, Bak, Baksa, and Lavell and seeks the following relief:

- H. Compensatory damages for loss of wages and benefits, pension losses, pain, suffering, stress, humiliation, mental anguish, and emotional harm, personal physical injury and sickness and exacerbation thereof;
- I. Damages for harm to reputation and career development;
- J. Reimbursement for medical expenses;
- K. Punitive damages;
- L. Attorneys' fees and costs of suit;
- M. Injunctive relief requiring remediation of Defendants' discrimination and retaliation; and

N. Such other relief as the Court may deem equitable and just.

SMITH MULLIN, P.C.
Attorneys for Plaintiff

BY: 
NANCY ERIKA SMITH

Dated: January 5, 2017

JURY DEMAND

Plaintiff demands trial by jury on all issues that are so triable.

SMITH MULLIN, PC
Attorneys for Plaintiff

By: 
NANCY ERIKA SMITH

Dated: January 5, 2017

CERTIFICATION

Pursuant to New Jersey Court *Rule 4:5-1*, counsel for Plaintiff hereby certifies that to her knowledge, no matter related to this one is currently pending in either arbitration or litigation.

SMITH MULLIN, PC
Attorneys for Plaintiff

By: 
NANCY ERIKA SMITH

Dated: January 5, 2017

Exhibit A

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Attorneys for Plaintiffs

PIA WILSON, JOCELYN LONG, MAURICE HORNE, SONYA DOTSON, DELOIS LANDRUM, TIELA LEWIS and GREGG WHITE, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

NEW JERSEY TRANSIT; JAMES SCHWORN; PAUL KELLY; JOHN WASILAK; PAT BATTERSBY; JANET CLARK and CELESTE DRISGULA,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ESSEX COUNTY
DOCKET NO. ESX-L-263-14

Civil Action

**THIRD AMENDED COMPLAINT
AND JURY DEMAND**

RECEIVED
ESSEX COUNTY
MAY DEC 22 P 12
RECEIVED
ESSEX COUNTY
MAY DEC 22 P 12

Plaintiffs Pia Wilson (“Wilson”), Jocelyn Long (“Long”), Maurice Horne (“Horne”), Sonya Dotson (“Dotson”), DeLois Landrum (“Landrum”), Tiela Lewis (“Lewis”) and Gregg White (“White”)(collectively herein referred to as “Plaintiffs”), on behalf of themselves and others similarly situated, by way of Complaint against Defendants New Jersey Transit (“NJ Transit”), James Schworn (“Schworn”), Paul Kelly (“Kelly”), John Wasilak (“Wasilak”), Pat Battersby (“Battersby”), Janet Clark (“Clark”), and Celeste Drisgula (“Drisgula”)(collectively herein referred to as “Defendants”), say:

THE PARTIES

1. During all times relevant to this Complaint, Plaintiffs Wilson, Long, Horne, and Dotson were and continue to be employees of Defendant NJ Transit as the term “employees” is defined by the New Jersey Law Against Discrimination N.J.S.A. 10:5-1, et. seq. (“LAD”).

2. During all times relevant to this Complaint, Plaintiff White was an employee of Defendant NJ Transit as the term “employee” is defined by the LAD until his termination on or about October 3, 2014.

3. During all times relevant to this Complaint, Plaintiffs Landrum and Lewis were employees of Defendant NJ Transit as the term “employees” is defined by the LAD until they were constructively terminated effective July 31, 2013 and February 1, 2013, respectively.

4. The Defendant NJ Transit is an employer as defined by the LAD. During all times relevant to this Complaint, Defendant NJ Transit was and is the employer of the Plaintiffs as that term is defined by the LAD.

5. During times relevant to this Complaint, Defendant Schworn was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

6. During times relevant to this Complaint, Defendant Kelly was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

7. During times relevant to this Complaint, Defendant Wasilak was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

8. During times relevant to this Complaint, Defendant Battersby was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

9. During times relevant to this Complaint, Defendant Clark was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

10. During times relevant to this Complaint, Defendant Drisgula was an upper level manager of Defendant NJ Transit who aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

VENUE

11. Pursuant to Rule 4:3-2, venue is proper in Essex County because the events underlying Plaintiffs' causes of action substantially occurred in Essex County, New Jersey. The nerve center of Defendant NJ Transit's business operation is located in Essex County, and several of the Plaintiffs reside in Essex County, New Jersey.

FIRST COUNT
(Discrimination Claims As To All Plaintiffs)

12. In this pleading, the "Class" is limited to African-American employees of Defendant NJ Transit who have been, are, or in the future will be employed in New Jersey by Defendant NJ Transit.

13. At all relevant times, Defendant NJ Transit has been, and continues to be an employer, within the meaning of the LAD.

14. Plaintiffs and the Class undertook work that was substantially equal to and/or similar to, if not identical to, the work of similarly situated non-African American employees.

15. Although Plaintiffs and the Class performed the same, substantially equal and/or similar work as that performed by similarly situated non-African American employees, Defendant NJ Transit unlawfully discriminated on the basis of race by compensating Plaintiffs and the Class at total compensation levels less than those similarly situated.

16. Plaintiffs' claims are typical of the claims of the members of the Class.

17. The proposed Class is so numerous that joinder of all members is impractical, and the disposition of their claims as a class will benefit the parties and the court. The precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of Defendants. Upon information and belief, there are more than twenty (20) members of the Class.

18. Plaintiffs' claims, and the claims of the Class, present questions of law and fact that are common to all Class members.

19. Plaintiffs' claims are typical of those claims which could be alleged by any member of the Class, and the relief sought is typical of the relief which would be sought by each member of the Class in separate actions. All the Class members were subject to the same race-discriminatory compensation practices of Defendant NJ Transit as alleged herein. Defendant NJ Transit's company-wide policies and practices affected all Class members similarly, and Defendant NJ Transit benefited from the same type of unfair and/or wrongful

acts as to each Class member. Plaintiffs and other Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

20. Plaintiffs are able to fairly and adequately protect the interests of the Class and have no interests antagonistic to the Class. Plaintiffs are represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in LAD cases.

21. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of salary disparity litigation where individual class members may lack the financial resources to vigorously prosecute a lawsuit against institutional defendants. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries, and damages suffered by each of the individual Class members are modest compared to the expenses and burden of individual litigation, non-certification of the Class would make it extremely difficult or impossible for the individual Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of Court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the Class, establishing incompatible standards of conduct for Defendant NJ Transit and resulting in the impairment of class

members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

22. There are questions of law and fact common to the Class which predominate over any questions affecting only individual class members, including:

(a) Whether Defendant NJ Transit has, on a company-wide basis, paid African American employees at rates less than those paid to similarly situated non-African American employees.

(b) Whether Defendant NJ Transit was aware of such race-discriminatory practices and yet took no prompt and efficient remedial measures to remedy such discrimination.

(c) Whether Defendant NJ Transit has analyzed the aforesaid earnings disparity using flawed statistical analysis.

(d) Whether specific policies, practices, programs, procedures, protocols and plans of Defendant NJ Transit resulted in a race-discriminatory salary structure.

23. The class claims set forth herein are maintainable under Rule 4:32-1(b)(1), (2) and (3).

24. Defendant NJ Transit has engaged in a pattern and practice of intentional race-based discrimination which has resulted in Plaintiffs and the Class being compensated at lower rates than non-African American employees for the performance of substantially equal, similar and/or identical work.

25. Defendant NJ Transit has promulgated facially neutral policies that have had the effect of causing Plaintiffs and the Class to receive less compensation than non-African American employees for the performance of substantially equal, similar and/or identical work.

26. As a direct and proximate result of Defendant NJ Transit's unlawful conduct, as set forth herein, Plaintiffs and the Class members have sustained damages, including loss of past and future wages, pension benefits and other benefits.

BACKGROUND TO INDIVIDUAL PLAINTIFFS'
CLAIMS

27. As described more fully herein, Defendants and others have engaged in a continuing pattern and practice of harassment, disparate treatment, discrimination and retaliation against African-American employees, including, but not limited to the following: (a) subjecting them to unfair and harsher discipline, (b) denying them promotions, (c) assigning them more onerous work assignments, (d) paying them lower salaries; and (e) refusing them the benefit of quality of life policies provided to non-African American employees.

28. Non-African-American employees at Defendant NJ Transit were free to harass and discriminate against African-American employees without fear of discipline from upper level managers, Defendant NJ Transit Equal Employment office ("EEO") or Human Resources.

29. As set forth herein, Defendant NJ Transit's work environment was and currently is characterized by retaliation against African-American employees who complain about, resist and/or otherwise oppose this illegal conduct.

30. Defendants Schworn, Kelly, Wasilak, Battersby, Clark and Drisgula and others have utilized Defendant NJ Transit's EEO and ethics offices to cover up discrimination and to punish persons who engage in protected activity.

31. Defendant NJ Transit's EEO office conspired and cooperated with the Defendants and their agents to cover-up and perpetuate this illegal conduct. Rather than preventing and remedying the illegal conduct, the EEO office's affirmative actions and omissions encouraged Defendants to further engage in the retaliatory, discriminatory and harassing conduct. The various individuals who conspired and cooperated with the Defendants in the harassment, retaliation and discrimination were rewarded by more favorable treatment, better opportunities and other forms of protection. A corporate culture was permitted to flourish which inured to the benefit of non-African-American employees and to the detriment of African-Americans.

32. African-American employees of Defendant NJ Transit have made numerous complaints of racial harassment and discrimination against Defendant NJ Transit and its upper level managers but Defendants refused to take prompt and effective remedial action.

33. Defendant NJ Transit negligently, recklessly, and/or intentionally failed to have in place a well-publicized and enforced anti-harassment, anti-discrimination and anti-retaliation policy.

34. Defendant NJ Transit failed to properly train its employees regarding compliance with anti-harassment, anti-discrimination and anti-retaliation policies.

35. Defendant NJ Transit failed to properly supervise its employees to ensure compliance with anti-harassment, anti-discrimination and anti-retaliation policies.

36. Defendant NJ Transit failed to make an unequivocal commitment from the top of the organization to anti-harassment, anti-discrimination and anti-retaliation policies as not just words but backed up by consistent practice.

37. Defendant NJ Transit failed to protect Plaintiffs and others similarly situated from abuse, harassment, discrimination and retaliation in the workplace.

38. Defendant NJ Transit negligently, recklessly, and/or intentionally failed to take prompt, appropriate, and/or reasonable remedial steps to prevent, stop, and remedy the harassment and retaliation aimed at Plaintiffs.

SECOND COUNT
(Allegations of Pia M. Wilson)

39. Plaintiffs repeat the previous allegations as set forth at length herein.

40. Plaintiff Pia M. Wilson is an African-American female who has worked for Defendant NJ Transit since January 16, 1990. As described in detail below, throughout Wilson's tenure with NJ Transit, Defendants and those working in concert with them have discriminated against her, retaliated against her, harassed her, and otherwise caused an illegal working environment.

41. Wilson began her employment in the Rail Union (TCU), where she worked for fifteen (15) years before being promoted to Purchasing Specialist in February 2005.

42. As Purchasing Specialist, Plaintiff Wilson reported directly to Defendant Schworn.

43. On or about March 1, 2007, Wilson was promoted to a Purchasing Agent reporting to Defendant Schworn.

44. In or about August 2010, she was promoted to Senior Purchasing Agent, where she has remained to date.

45. Beginning in December 2011, Wilson started reporting to Rivera, who replaced Schworn as Senior Director of Procurement.

46. On or about October 25, 2011, Wilson filed a complaint with William Hemphill ("Hemphill"), Director of EEO, alleging race and gender discrimination in the disparate salaries in the Procurement Department.

47. In response to this complaint, Hemphill stated, "there was nothing [he] or anyone else could do. That was just the way it is at NJ Transit."

48. Subsequently, Hemphill met with Defendant Schworn and Rivera but none of Wilson's complaints were resolved.

49. These intentional failures on behalf of Defendant NJ Transit and Defendants ratified and perpetuated the rampant race discrimination.

50. As part of a pattern and practice of discrimination, in or about November 2011, Defendant Schworn reduced the workload of Debbie Golub ("Golub"), a similarly situated Caucasian female.

51. Plaintiffs Landrum and Wilson, who had already assumed the bulk of the Procurement Department's work, were assigned Golub's contracts and requisitions.

52. Golub was left with the responsibility for P-Cards. Thus, Golub, who earned more than Landrum and Wilson but had less experience and education, was assigned less work.

53. In addition, Golub was permitted to work flexible work hours and occasionally work from home.

54. When Plaintiff made requests for similar quality of life accommodations, they were summarily rejected.

55. Golub was also treated more favorably than Plaintiff Wilson in her work location. She was permitted to install a side cubicle panel for added privacy.

56. When Plaintiff Wilson installed a similar side panel, it was immediately removed.

57. In a letter, dated January 31, 2012, Hemphill rejected Plaintiff Wilson's claims of discrimination and closed the matter based on the false finding that that the pay differences reflected longevity on the job.

58. This was a fabrication because Golub earned more than Plaintiff Wilson although Golub had less seniority in the Department.

59. On or about July 12, 2012, Plaintiff Wilson complained to Pat Bullock ("Bullock"), EEO Officer, about the ongoing harassment directed at her from Acting Director of Procurement Support, Teresa Russo ("Russo"), a Caucasian female.

60. Plaintiff Wilson described to Bullock the discrimination experienced by African-American employees by NJ Transit, which had yet to be addressed despite repeated complaints to Hemphill and others.

61. Plaintiff Wilson never received a response of any kind from Bullock following this complaint.

62. By the fall of 2012, the working conditions in the Procurement Department were intolerable and Plaintiff Wilson requested a transfer out of the department.

63. Plaintiff Wilson was physically, emotionally and psychologically exhausted by the racial inequities and NJ Transit's refusal to remediate them.

64. Receiving no response, Plaintiff Wilson renewed her request to Hemphill a second time on January 29, 2013.

65. Again she received no response.

66. In or about January 2013, Wilson was told to train Bernice Wilson ("B. Wilson"), an African-American female who was hired as a Purchasing Specialist.

67. Plaintiff Wilson was led to believe that B. Wilson would assume some of her work.

68. Instead, B. Wilson was assigned to Golub as her P-Card Assistant. On or about February 20, 2013, Plaintiff Wilson, for the third time, renewed her request to Hemphill for a transfer.

69. Again, her request was ignored.

70. On March 13, 2013, Plaintiff Wilson sent a fourth transfer request, which was deleted by Hemphill without being read.

71. On March 22, 2013, Plaintiff Wilson met with Barnett and Butler to complain about the ongoing hostility and racial discrimination.

72. Plaintiff Wilson advised Barnett and Butler of her prior complaints to Hemphill, Bullock, Rivera and Defendant Schworn advising that none of them took any action to address the discrimination.

73. In or about July of 2013, Roman, a Caucasian female, was hired as a Bid Desk Specialist without proper experience or education.

74. At or about that same time, John Paul Mouta, a Caucasian male, was hired into the Purchasing Department as a Senior Purchasing Agent with no purchasing/contract experience and no formal education. Upon information and belief, Mouta was provided with a higher salary than Plaintiff Wilson.

75. On or about July 31, 2013, Wilson accompanied Plaintiff Landrum to her exit interview with Barnett, where both women repeated their complaints of race discrimination, harassment and retaliation in the Procurement Department.

76. Plaintiffs Wilson and Landrum, once again, detailed the unreasonable workload, the salary inequities, the failure to promote African-American employees, and the denial of certain benefits afforded non-African-American employees.

77. On or about August 14, 2013, Plaintiff Wilson met with Kevin Ruff ("Ruff"), Principal EEO/AA Officer, concerning these complaints.

78. After a one hour discussion, Ruff concluded that the Procurement Department suffered from bad management, not race discrimination, and dismissed Wilson's complaints.

79. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

80. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Wilson has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation, and harm to her career development.

81. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff Wilson and has created a harassing and hostile work environment for Plaintiff Wilson because of her race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

THIRD COUNT
(Allegations of Jocelyn Long)

82. Plaintiffs repeat the previous allegations as set forth at length herein.

83. Plaintiff Jocelyn Long is an African-American female who has worked for NJ Transit since July 2001. As described in detail below, throughout Long's tenure with NJ Transit, Defendants and those working in concert with them have discriminated against her, retaliated against her, and otherwise caused a hostile and discriminatory work environment for Plaintiff Long.

84. Long began her employment as a Marketing Coordinator.

85. She was promoted on December 5, 2005 to Product Marketing Manager.

86. On February 1, 2008, she was again promoted to Senior Product Manager where she remains to date.

87. As the Product Marketing Manager and Senior Product Manager, Long reported to Defendant Battersby, Director, Product Marketing, a Caucasian female.

88. Since 2009 and continuing to the present, Long has been subjected to and witnessed a pattern and practice of racial discrimination in the Marketing Department.

89. In or about September 2011, Defendant Battersby was awarded "Employee of the Month" for projects that Long had managed and for which Long received no recognition.

90. From 2009 until the present, despite her repeated requests, Long has not received any annual performance reviews allegedly because of the freeze on merit raises. These performance evaluations affect the terms and conditions of Long's employment and are used to evaluate merit raises, "Employee of the Month" recognition and other awards which enhance future opportunities.

91. In contrast, the non-African-American managers in the Marketing Department receive annual reviews and, in turn, merit increases and other awards and recognition.

92. Defendant NJ Transit was able to bypass the freeze on merit increases and raises by reclassifying the positions of certain select non-African American employees.

93. Much of the work for which Caucasian employees receive recognition is performed by African-American employees, who do not receive the recognition or compensation for their accomplishments.

94. On or about March 21, 2007, during her performance review, Plaintiff Long requested a reclassification of her position.

95. At the same time, two Caucasian employees, Marci Brezina and Beata Lazor, also requested reclassifications which they received.

96. In or about February, 2008, Plaintiff Long's reclassification was approved, but Long's new job description did not reflect the full array of her job responsibilities and managerial duties. As a result, continuing to the present, Long's compensation has never been commensurate with her work or accomplishments resulting in less pay and less pension contributions as compared to similarly situated non-African-American employees.

97. Long recently learned that her non-African-American colleagues received considerably larger pay increases than she, despite no change in their responsibilities. For example, Marci Brezina was promoted to Principal Graphic Designer and Beata Lazor was promoted to Senior Graphic Designer resulting in pay increases without any additional responsibilities.

98. From the Fall 2011 up to July 2013, after Defendant Clark, a Caucasian female, assumed the position of Acting Senior Director, Defendant Clark discriminatorily and dramatically lowered Plaintiff Long's budget.

99. However, the budgets for marketing campaigns managed by Defendant Battersby are consistent or higher from year to year.

100. Non-African-American employees get preferential assignments. Most notably, non-African American employees receive preferential treatment for high profile assignments such as the Super Bowl and Homeland Security Awareness campaign.

101. In or about March 2012, Titan Outdoor, NJ Transit's advertising vendor, requested that it be presented with all advertising space and sponsorship proposals presented by NJ Transit Marketing Department.

102. Long initially had direct contact with Titan Outdoor's representatives and performed in a superior manner.

103. Later in 2012, Defendant Clark assumed all communication responsibilities with Titan Outdoor and removed Plaintiff Long under false pretenses.

104. In or about October 2013, Defendant Clark told Long that she was too busy and that Defendant Battersby would be the contact to Titan.

105. Long has been hampered by this procedure as she has lost valuable time securing space and has learned that some of her proposals were not forwarded to Titan Outdoor in a timely manner or even at all.

106. This cumbersome procedure has resulted in Long having less time to devote to other aspects of her job.

107. Her non-African-American colleagues are permitted direct access to Titan Outdoor representatives.

108. Plaintiff Long has witnessed minority employees being subjected to hostile behavior during department meetings.

109. Defendant Clark is openly hostile to African-American employees, including, but not limited to, (a) verbally abusing them; (b) speaking to them derogatorily; (c) ignoring them; and (d) falsely accusing them of inappropriate behavior.

110. In May, 2013, Plaintiff Long filed a complaint with EEO describing that African-American employees are being continuously discriminated against in pay, promotions, assignments, opportunities and resources and that a hostile environment exists.

111. In July, 2013, having received no response from EEO, Diversity or Human Resources, Plaintiff Long inquired as to the status of her complaint and provided a more recent example of discrimination.

112. Shortly after Plaintiff Long's complaint, Defendant NJ Transit created and advertised an open position which included many of the tasks currently being performed by Long.

113. To date, Plaintiff Long has received no response to her complaint from EEO, Diversity or Human Resources.

114. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

115. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Long has suffered and continues to suffer loss of earnings and other employment benefits,

severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation and harm to her career development.

116. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff Long and has created a harassing and hostile work environment for Plaintiff Long because of her race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

FOURTH COUNT
(Allegations of Maurice Horne)

117. Plaintiffs repeat the previous allegations as set forth at length herein.

118. Plaintiff Maurice Horne is an African-American male who began employment with Defendant NJ Transit on or about November 28, 1988.

119. Throughout Plaintiff Horne's employment, he has been subjected to a continuing pattern and practice of discrimination and harassment because of his race.

120. Throughout his employment, Plaintiff Horne performed his job in a conscientious and competent manner, yet he was repeatedly passed over for promotion in favor of equally or less-qualified non-African Americans.

121. In or about January of 2001, Plaintiff Horne filed a Charge of Discrimination against Defendant NJ Transit. The race and age discrimination Complaint was settled in 2002.

122. In or about January of 2011, Plaintiff Horne filed a retaliation claim against Defendant NJ Transit. The EEOC issued a right to sue notice on the retaliation claim, but Plaintiff did not litigate the retaliation claim within the 90 days required.

123. Throughout Plaintiff Horne's career with NJ Transit, he and other African-Americans in the Purchasing Department have been subject to unequal compensation, unfair

job assignments and workloads, and unfair performance evaluations.

124. Plaintiff Horne's supervisor, Defendant Kelly, treats Plaintiff Horne in a discriminatory, condescending, and harassing manner.

125. Non-African Americans in the Purchasing Department are granted preferential treatment in job titles, pay, and work space.

126. Some Non-African American employees are given job benefits not given to equally deserving African-American employees, such as leaves of absence, flexible work schedules, working from home, and other job benefits.

127. Frequently, non-African American employees in the Purchasing Department are not counseled or disciplined for poor work performance.

128. In 2012, the position of Director of Purchasing became vacant. Plaintiff Horne was the most qualified employee of Defendant NJ Transit for the Director position.

129. Although Plaintiff Horne is the most experienced and qualified member of the Purchasing Department, when Defendant Kelly is away, Defendant Kelly leaves a less senior, less knowledgeable Caucasian employee with no management experience in charge of the department.

130. Similarly, in order to diminish Plaintiff Horne's authority, although Plaintiff Horne participated in the hiring decision and is shown on organization charts to be the manager of a new employee, Defendant Kelly has assigned the management of the new employee to a non-African American with no management experience.

131. Rather than give the Director of Purchasing position to a qualified African-American, Defendant NJ Transit has left the position vacant.

132. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

133. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Horne has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation and harm to his career development.

134. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff Horne and has created a harassing and hostile work environment for Plaintiff Horne because of his race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

FIFTH COUNT
(Allegations of Sonya Dotson)

135. Plaintiffs repeat the previous allegations as set forth at length herein.

136. Plaintiff Sonya Dotson is an African-American female who began her employment with Defendant NJ Transit on January 29, 1990. As described in detail below, throughout Plaintiff Dotson's tenure with Defendant NJ Transit, Defendants and those working in concert with them discriminated against her, retaliated against her, harassed her, and otherwise caused a hostile and discriminatory work environment.

137. Plaintiff Dotson was hired into Defendant NJ Transit's Payroll Department as a Payroll Analyst and then promoted to Senior Accountant in or about 2001.

138. From July 14, 2008 until August 27, 2008 and from November 12, 2008 until January 4, 2009, Plaintiff Dotson was assigned the role of Acting Payroll Manager – Bus, Corporate, and Police Payroll, in addition to her Senior Accountant responsibilities.

139. In or about May 2009, Plaintiff Dotson applied for two Principal Accountant positions and one Supervisor position. She was rejected for all three in favor of Pearl Foley, a Caucasian female, Joseph Schmatz, a Caucasian male, and Veronica Bergara, a Hispanic female, despite Plaintiff Dotson having superior qualifications and experience.

140. On or about November 22, 2010 and continuing until May 30, 2014, Plaintiff Dotson was again assigned the role of Acting Payroll Manager - Bus, Corporate & Police Payroll, in addition to her Senior Accountant responsibilities.

141. In or about March 2014, the position of Payroll Manager – Bus, Corporate & Police Payroll was posted.

142. Plaintiff Dotson interviewed for the position but was rejected in favor of Amy Ringen, a Caucasian female, who had limited payroll experience, but who Plaintiff Dotson was told had ePersonality experience.

143. Ms. Ringen rejected the promotion claiming it would take too much time away from her family.

144. The position was then offered to Mr. Schmatz, who had limited experience in both payroll processing and ePersonality.

145. Despite her protestations, Plaintiff Dotson was told by Pradip Matalia, Director of Payroll Operations, that she had to train Mr. Schmatz on payroll processing, which Mr. Schmatz confirmed.

146. Since in or about 1996, African-American employees have been consistently passed over for positions of supervisor, manager or director in the Payroll Department in favor of less experienced and less qualified non-African Americans:

a. In or about 1996, Patricia Brown, an African-American female, was terminated and replaced by Monica Kaczor, a Caucasian female.

b. In or about 2009, William Avery, a Caucasian male, who had limited payroll experience, was hired for the position of Manager Rail Payroll, bypassing the usual promotional structure of accountant to senior accountant to principal accountant and then to supervisory levels.

c. In or about 2014, an African-American female, was rejected for the Principal Accountant position in favor of Attit Desai, an Asian Indian, who had less experience and was not even interested in the position.

d. In or about 2014, Lisa Bennett, an African-American female, was denied the position of Director of Taxation, which she had held for the prior two years, in favor of Kathy Perna, a Caucasian female, who had no taxation experience.

e. In or about 2014, Ms. Bennett was also denied the position of Manager of Payroll Taxation in favor of M. Perea, a Hispanic female, who had substantially less taxation experience than Ms. Bennett.

147. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Dotson has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation, and harm to her career development.

148. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff Dotson and has created a harassing and hostile work environment for Plaintiff Dotson because of her race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

SIXTH COUNT
(Allegations of DeLois Landrum)

149. Plaintiffs repeat the previous allegations as set forth at length herein.

150. Plaintiff DeLois Landrum is an African-American female who worked for Defendant NJ Transit from October 3, 1988 until her constructive termination on or about July 31, 2013.

151. As described in detail below, throughout Landrum's tenure with NJ Transit, Defendants and those working in concert with them discriminated against her, retaliated against her, and otherwise caused a hostile and discriminatory work environment.

152. Plaintiff Landrum began her employment with Defendant NJ Transit as a Contract Specialist.

153. In or about 2006, she was promoted to Senior Contract Specialist in the Contracts Section of the Procurement Department where she remained until her constructive termination.

154. In or about November 2008, because the Department had recently lost its Director and three (3) of its Senior Purchasing Agents to early retirement, Landrum was assigned to assist Plaintiff Horne, who was then Acting Director of Purchasing, Corporate Common Goods & Service, until additional personnel were hired.

155. In addition to her existing workload, Plaintiff Landrum was assigned seventy (70) contracts previously managed by two (2) of the retired agents.

156. Plaintiff Landrum was also assigned tasks unrelated to her job title, such as assisting with the P-Cards, managing the Staples account, and performing the responsibilities of Golub, a Caucasian employee who was out on a leave of absence.

157. To ensure that the demands of the department were met, Plaintiff Landrum worked excessively long hours.

158. The pressure and stress from the workload and hours took a physical and emotional toll on Plaintiff Landrum.

159. Further adding to the stress experienced by Plaintiff Landrum was the hostility from her non-African-American colleagues who refused to speak with her and otherwise isolated her.

160. In particular, Chris Johnston ("Johnston"), a Caucasian female, stood in the office next to Landrum's and spoke negatively about her to her supervisor, Jose Rivera.

161. Plaintiff Landrum complained about Johnston's harassment to Tom Woods ("Woods"), Chief of Procurement, stating that Johnston's behavior was creating a hostile work environment.

162. Rather than moving Plaintiff Landrum to another department as she requested, Woods merely moved her to another office within the department.

163. Following Landrum's complaint, Johnston retaliated and continued the harassment.

164. On one occasion, Johnston walked by Plaintiff Landrum's new office and made offensive comments about Landrum "sleeping with management to get an office with a door."

165. Upon information and belief, despite numerous complaints, Johnston was never disciplined.

166. Johnston's hostile behavior continued unabated until March, 2012 when she was placed on a one-year suspension for having executed million dollar contracts without appropriate approvals or authority.

167. Unlike African-American comparators who received unpaid suspensions for minor infractions, Johnston was permitted to remain on the payroll, despite having engaged in such egregious conduct.

168. In or about October 2010, Plaintiff Landrum complained of discrimination to Steven Capone ("Capone"), who was then the Department's Director.

169. In connection with this complaint, Plaintiff Landrum requested that, among other things, her position be upgraded to Principal Contract Specialist since she was already performing the job of three people, plus her own.

170. Plaintiff Landrum's request was signed and approved by Schworn and Woods two (2) years in a row, but she never received the upgrade nor was she provided any assistance for the excessive workload.

171. During this same time, non-African-Americans continued to receive promotions and upgrades.

172. In addition, more onerous workloads were assigned to other African-American employees who were not fairly compensated or acknowledged for this work.

173. During the two (2) years that Plaintiff Landrum was waiting for an upgrade and assistance, she is aware of: (a) an entire department of Caucasian males upgraded from Planners to Planners/Buyers; (b) Janet Ellenbacher ("Ellenbacher"), a Caucasian female,

upgraded to Manager (Bus) Agent (then granted a downgrade to a Senior Contract Specialist, while maintaining her manager salary); and (c) Dave Amecangelo ("Amecangelo"), a non-African-American male, who, after failing at several jobs, was ultimately promoted to Senior Purchasing Agent, where Landrum had to constantly monitor his work.

174. In or about February/March 2012, Plaintiff Landrum e-mailed Capone and Rivera a list of contracts she was working on.

175. Plaintiff Landrum told Capone and Rivera that she could no longer perform at the same pace she had been doing the previous four (4) years because of her own and family medical conditions.

176. In response, Plaintiff Landrum was assigned to Rivera, who along with Defendant Schworn, discussed promoting her to a management position in a yet to be formed Contract Section.

177. In connection with this proposed position, Defendants promised Plaintiff Landrum that she would supervise three (3) employees.

178. Landrum spent the next several months training these three (3) employees to process contracts and creating the blueprint for how the new Contract Section should operate.

179. From August 12, 2012 to October 15, 2012, Plaintiff Landrum was on a medical leave of absence.

180. Upon her return, contrary to NJ Transit practice, Plaintiff Landrum found all of her uncompleted contracts on her desk waiting for her to process them.

181. When non-African-American employees were on leave, Plaintiff Landrum was told to assume and complete their work.

182. On or about November 8, 2012, the Hurricane Sandy Project was added to Plaintiff Landrum's workload.

183. Plaintiff Landrum was also told to continue working on the planned Contract Section.

184. The additional workload increased Plaintiff Landrum's depression and exacerbated her physical, emotional and psychological exhaustion.

185. Landrum was convinced that she was being set up for failure. Rather than face an unjust termination, she contacted NJ Transit's Pension Department regarding her retirement qualifications.

186. In or about January 2013, Plaintiff Landrum was called into a meeting with Defendant Schworn and Rivera to discuss the new Contract Section.

187. Because of the intolerable workload and environment, Plaintiff Landrum requested to be relieved of work on the project until it was officially approved and she was placed in a managerial capacity.

188. After this meeting and objection, Defendant Schworn never spoke to Plaintiff Landrum again and refused to acknowledge Plaintiff Landrum in subsequent meetings.

189. On or about July 6, 2013, Defendant Schworn blamed Landrum for mistakes made by others on contracts assigned to others.

190. Thereafter, Defendant Schworn's retaliatory, unfair and discriminatory criticisms continued unabated.

191. On or about July 17, 2013, Defendant Schworn exploded at Landrum and accused her of deliberately making him "look bad" before NJ Transit Board members.

192. Plaintiff Landrum had sent Defendant Schworn information on a major contract, which he misinterpreted and then misquoted to the NJ Transit Board members.

193. Defendant Schworn blamed Landrum for his own mistake, which he memorialized in an e-mail.

194. Upon information and belief, thereafter, Defendant Schworn went to Rivera's office where he verbally castigated Landrum loud enough for the entire Department to hear.

195. Defendants knowingly permitted conditions of discrimination, harassment, and retaliation in employment so intolerable, egregious, outrageous coercive and unconscionable that any reasonable person subject to them would resign.

196. The harassment, discrimination and retaliation had become so severe and pervasive that Landrum felt she had no choice but to leave and handed in her retirement papers at the end of the day on July 17, 2013. She was physically and emotionally unable to continue enduring the severe harassment, discrimination and retaliation which pervaded the workplace.

197. On July 30, 2013, Landrum's last day of work, two (2) Principal Contract Specialist positions were posted for hiring.

198. Upon information and belief, Defendant Schworn had delayed posting the positions until he forced Plaintiff Landrum to leave Defendant NJ Transit.

199. Plaintiffs Landrum and Wilson met with Barnett. Both women provided Barnett with copies of their performance appraisals, a condescending memoranda that Defendant Schworn had issued, and copies of the new job postings.

200. Plaintiffs Landrum and Wilson advised Barnett about the emotional and physical stress they endured in the Procurement Department as a result of the racial hostility and discrimination.

201. Plaintiff Landrum attended an exit interview on July 31, 2013 with Butler during which she recounted the number of times she complained to Butler from 2008 to the present about the disparate treatment, retaliation and harassment African-American employees endured in the Procurement Department.

202. Plaintiff Landrum specifically referenced the hostile work environment, the failure to receive promotions or upgrades, the disparate workload, and the refusal to grant African-Americans the same advantages and opportunities granted to non-African-American employees.

203. Landrum concluded the meeting by stating that she was forced to retire as a result of Defendant NJ Transit's knowing refusal to remediate the racial disparity and the devastating impact it has on its African-American employees.

204. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

205. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Landrum has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation and harm to her career development.

206. By and through the actions described herein, Defendant NJ Transit has engaged in a pattern and practice of discrimination against Plaintiff Landrum and has created

a harassing and hostile work environment for Plaintiff Landrum because of her race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

SEVENTH COUNT
(Allegations of Tiela Lewis)

207. Plaintiffs repeat the previous allegations as set forth at length herein.

208. Plaintiff Tiela Lewis is an African-American female who worked for Defendant NJ Transit from June 1984 until her constructive termination on or about February 1, 2013.

209. Plaintiff Lewis held the position of Executive Secretary reporting to the Deputy Treasurer of Finance for approximately eighteen (18) out of her twenty-nine (29) year career with Defendant NJ Transit.

210. As described in detail below, throughout Plaintiff Lewis' tenure with Defendant NJ Transit, Defendants and those working in concert with them discriminated against her, retaliated against her, and otherwise caused a hostile and discriminatory work environment.

211. In or about April 2005, Deputy Treasurer John J. Burns ("Burns") advised Plaintiff Lewis that she would be promoted with a pay increase.

212. Per Burns' instructions, Lewis completed a position description questionnaire form ("PDQ"), which she submitted and which was ignored.

213. In or about 2009-2010, Plaintiff Lewis reported to Defendant Celeste Drisgula, who replaced Burns.

214. Based on her past superior performance appraisals, Defendant Drisgula agreed that a promotion and pay increase were appropriate for Plaintiff Lewis.

215. After several months of waiting, Plaintiff Lewis asked Defendant Drisgula about the status of her promotion and pay increase.

216. Defendant Drisgula advised Plaintiff Lewis that her request was denied.

217. Lewis later learned that Defendant Drisgula, contrary to her promise, never requested the promotion or salary increase.

218. By 2010, Lewis and her four African-American colleagues who held management positions in the Treasury Department had all been overlooked for promotions and raises.

219. For example, Plaintiff Lewis had not had a raise in six years.

220. In contrast, Jacqueline Stamford ("Stamford"), a Caucasian female, was given a position for which she did not apply with a substantial pay raise.

221. Similarly, David Zukowski ("Zukowski"), a Caucasian male, was given an upgrade with a substantial pay raise.

222. In order to progress within Defendant NJ Transit, from 2008 to 2012, Plaintiff Lewis applied for approximately three (3) promotions, for which she was best qualified, but never received.

223. After one particularly positive interview in or about 2009, Lewis overheard Jeff Klugman ("Klugman"), Human Resources Representative, say that, "Jack Burns is going to be pissed" that Lewis had such a good interview.

224. In or about 2011, Plaintiff Lewis applied for a position in the Defendant NJ Transit Board of Directors' office for which she was called back three (3) times for interviews.

225. Plaintiff Lewis was never offered the position and, despite her requests, was never given a reason why.

226. During her last year of employment, Plaintiff Lewis was becoming increasingly marginalized by Defendant Drisgula. For example, Defendant Drisgula no longer put Plaintiff Lewis in charge when she was unavailable or out of the office.

227. Defendant Drisgula removed some responsibilities from Plaintiff Lewis, including her access to Defendant Drisgula's e-mails and calendar and no longer informed her of department meetings.

228. In the months leading to her forced termination, Plaintiff Lewis noticed that Christine Barbaro ("Barbaro"), a Caucasian female, was frequently visiting Defendant Drisgula in her office as Plaintiff Lewis was becoming increasingly marginalized

229. The harassment, discrimination and retaliation had become so severe and pervasive that Plaintiff Lewis felt she had no choice but to leave and handed in her retirement papers effective February 1, 2013. She was physically and emotionally unable to continue enduring the severe harassment, discrimination and retaliation which pervaded the workplace.

230. Defendants knowingly permitted conditions of discrimination, harassment and retaliation in employment so intolerable, egregious, outrageous, coercive and unconscionable that any reasonable person subject to them would resign.

231. Shortly after her retirement, Lewis learned that Barbaro had replaced her and that the position had been upgraded and the salary increased.

232. Lewis never received an explanation or feedback as to why she was not offered the upgrade or higher salary.

233. Upon information and belief, two (2) African-American employees, Kunle Adeyemi and Janet Waite, filed discrimination cases against Defendant NJ Transit for failure to promote based on the improper posting for a management position.

234. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

235. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff Lewis has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress, humiliation, pain, damage to reputation, and harm to her career development.

236. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff Lewis and has created a harassing and hostile work environment for Plaintiff Lewis because of her race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

EIGHTH COUNT
(Allegations of Gregg White)

237. Plaintiffs repeat the allegations as set forth at length herein.

238. Plaintiff Gregg White is an African-American male who worked for Defendant NJ Transit from February 7, 2005 until his wrongful termination on or about October 3, 2014.

239. Throughout his employment with Defendant NJ Transit, Plaintiff White held the position of Director, System Planning and Control, in its Information Systems ("IS") organization, where he was the highest ranking African-American from February 2005 until August 2013.

240. As described in detail below, during Plaintiff White's tenure with Defendant NJ Transit, Defendants and those working in concert with them, discriminated against him, retaliated against him, and otherwise caused a hostile and discriminatory work environment.

241. Plaintiff White reported to James Redeker ("Redeker"), Vice-President/AED Technology, Planning and Customer Services, until Redeker's retirement in January 2009.

242. Plaintiff White's primary responsibilities were as lead project manager for a new Human Resources Management System ("HRMS") being developed for all of Defendant NJ Transit (the "HRMS Project").

243. Plaintiff White also served as the head of the Technology Governance Implementation Process ("Technology Governance").

244. Plaintiff White performed his job functions in an exemplary manner receiving ratings of "Far Exceeds Expectations" and "Exceptional/Distinguished" on the performance reviews he received from Redeker, which were the only performance reviews he received at Defendant NJ Transit.

245. In or about 2007, Redeker and Plaintiff White created an HRMS Steering Committee (the "Steering Committee"), comprised of a cross-functional representation of Defendant NJ Transit senior managers, who provided input regarding the needs of their departments from an HRMS project.

246. The Steering Committee members were also tasked with responding to requests for subject matter expertise, resource support and key issue resolutions.

247. Plaintiff White worked with and relied upon feedback and input from Kim Vaccari ("Vaccari"), Defendant NJ Transit's Chief Financial Officer, and Fred D'Ascoli ("D'Ascoli"), Defendant NJ Transit's Deputy Chief Financial Officer and Treasurer

(collectively known as "Finance Managers"), as well as Joel Golub ("Golub"), Chief Information Officer, Karen Giordano ("Giordano"), Director, Transportation Systems, Michael Slack ("Slack"), Deputy Chief Information Officer, Linda Primerano ("Primerano"), Director, Finance/Administration Systems, and Patrick Pollari ("Pollari"), Database Administration, all of whom were Caucasian and upper managers in the IS organization (collectively known as "IS Managers").

248. An open and collaborative relationship with these Finance and IS Managers was crucial to the success of the HRMS Project and Technology Governance.

249. After Redeker's retirement, Golub became supervisor of the IS Department which was moved under the Finance Department, with Golub reporting to Vaccari.

250. Plaintiff White then reported to Golub, who created and allowed to flourish the hostile and discriminatory work environment directed at Plaintiff.

251. Representatives of Defendant NJ Transit were unfairly critical of Plaintiff White's projects, but provided more favorable support for the projects of their non-African-American colleagues.

252. Representatives of Defendant NJ Transit delayed providing Plaintiff White input, assistance or resources in order to cast him in a negative light and interfere with his responsibilities.

253. Despite numerous complaints from Plaintiff White, Golub offered no support or assistance to remediate the hostility.

254. Golub's actions, or lack thereof, were intended for Plaintiff White to fail or otherwise interfere with his responsibilities, to wit:

a. In or about February 2009, Golub attempted to transfer funds from the HRMS Project to other IS projects not managed by Plaintiff White. Members of the HRMS Steering Committee intervened to stop the transfer.

b. In or about March 2009, Golub refused to authorize payment for Technology Governance which had already been approved. As a result of this refusal, Plaintiff White could not implement a Technology Steering Committee, which was detrimental to the process.

c. In or about January, 2010, Golub reassigned two (2) of Plaintiff White's subordinates to report to Golub directly and assumed Plaintiff White's oversight responsibilities for the Technology Governance, thereby undermining Plaintiff White's authority and responsibilities. Golub falsely claimed this reassignment was to allow Plaintiff White more time on the HRMS Project.

255. In or about March/April 2010, Plaintiff White advised Golub and the HRMS Steering Committee that because of scope and resource issues, the HRMS Project would overrun the initial Board Authorization for capital spending.

256. In or about July 2010, Plaintiff White drafted the required Board Authorization for the additional spending on the HRMS Project.

257. In or about August 2010, the Board Authorization was submitted for review to the Board Subcommittee tasked with reviewing requests for spending and capital appropriations.

258. Despite being the primary and principal architect of the HRMS Project, Plaintiff White was intentionally excluded from all Board Subcommittee meetings, where substantive issues regarding the HRMS Project were reviewed and discussed.

259. Upon information and belief, the Finance Managers, Golub and others made the decision to keep Plaintiff White out of these meetings so that he could be blamed and scapegoated for issues involving the HRMS Project.

260. Golub, Vaccari, and Alma Scott-Buczak ("Scott-Buczak"), Defendant NJ Transit's AED Human Resources, along with other members of the Steering Committee, were invited to attend the Board Subcommittee meetings.

261. Due to their lack of involvement and knowledge of the HRMS Project, they were unable to answer key questions, which Plaintiff White could have readily addressed.

262. As a result, representatives of Defendant NJ Transit created the false impression that the HRMS Project was severely mismanaged and Plaintiff White's reputation and standing were harmed.

263. In or about September 2010, the Board Authorization was approved with the caveat that monthly, then quarterly, updates on the HRMS Project would be given to Defendant NJ Transit's Commissioner and the Board.

264. In or about September, 2010, Plaintiff White was removed as lead manager from the HRMS Project despite repeated recognition that the HRMS Project did not receive proper support and resources to succeed.

265. When Plaintiff White sought to get an explanation for his removal and his role going forward, none was provided.

266. In or about the same time, Golub, Vaccari and D'Ascoli retained Accenture Consulting ("Accenture") to assist and review the HRMS Project and make recommendations.

267. Plaintiff White retained oversight of the HRMS Project budget, bills and other financials, but he was rarely consulted with and excluded from planning, strategy and status discussions held by the Steering Committee members and IS Management regarding the HRMS Project.

268. Plaintiff White was relegated to a menial role in the HRMS Project.

269. In or about February 2011, Plaintiff White began reporting to Michael Slack, following Golub's retirement that month.

270. During Golub's tenure as supervisor, Golub completed performance evaluations for all of his direct reports except for Plaintiff White which was a violation of Defendant NJ Transit policy and evidence of disparate treatment.

271. While serving as supervisor, Slack rarely met with Plaintiff White but regularly met with his non-African American colleagues.

272. On those rare occasions when they did meet in response to Plaintiff White's request for additional assignments or clarification of his modified role, Slack told Plaintiff White to "make himself useful" and "find other things to do to support the HRMS Project".

273. Beginning in April 2011, without explanation, Plaintiff White was excluded from meetings and reviews of the HRMS Project.

274. Upon information and belief, at these meetings and reviews, Slack consistently criticized the HRMS Project and make negative and disparaging comments directed at Plaintiff White.

275. Throughout his employment with Defendant NJ Transit, Plaintiff White complained to Scott-Buczak about the hostile work environment and discrimination he experienced.

276. Plaintiff White complained to Scott-Buczak about his increasing lack of role definition and his exclusion from key meetings and decisions regarding the projects he was hired to manage.

277. Plaintiff White also complained to Scott-Buczak about the disparate treatment to which he was subjected as the sole African-American in IS senior management.

278. At no time was any action taken by Scott-Buczak or any other Defendant NJ Transit representative to remediate the discriminatory workplace.

279. In response to Plaintiff White's request to transfer to another Defendant NJ Transit Department, Scott-Buczak advised it would be better for him "to just leave NJ Transit".

280. In or about April 2013, Plaintiff White was assigned various contrived and menial tasks - - to which he objected - - which were either (1) not required, (2) already completed, (3) inappropriate based on his skills/background, or (4) lacked sufficient resources to complete.

281. These assignments circumvented Plaintiff White's management.

282. Plaintiff White, once again, complained about being excluded from meaningful work, particularly related to the HRMS Project.

283. By February 2014, Plaintiff White was marginalized within IS organization.

284. Plaintiff White was discriminated against in salary. He did not receive a salary increase, which, despite the freeze on raises, were given to his colleagues in 2009 and 2012 under the guise of an undefined "reorganization."

285. In or about March 2014, Plaintiff White applied for the position of Director, Process Management, reporting to the CFO.

286. Plaintiff White never received a response to his application other than acknowledgement that it was received.

287. He also never received a response from the new Chief Financial Officer, Kathleen Sharman, when he inquired about the status of his application.

288. In or about June 2014, Plaintiff White was told that his department and his position were being eliminated and that he should apply for other positions in Defendant NJ Transit.

289. Plaintiff White, however, was the only employee terminated from his department.

290. On or about June 5, 2014, Plaintiff White's access to the HRMS system was changed to "Read Only," while his direct report, Sharon Hellman ("Hellman"), a Caucasian female, continued to have full access.

291. Defendant NJ Transit made no effort to assist Plaintiff White in his search for another position, unlike non-African American employees.

292. Plaintiff White was dissuaded from pursuing the Police Technology Specialist position for which he was well-qualified.

293. His white colleague, Sharon Hellman, on the other hand, was offered the job of Lead Systems Analyst Programmer, a position not suited to her experience or skill set.

294. Plaintiff White's employment was illegally terminated, effective October 3, 2014.

295. Defendant NJ Transit acts through its upper level managers for whom Defendant NJ Transit has *respondeat superior* liability.

296. As a direct and proximate result of Defendant NJ Transit's conduct, Plaintiff White has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, personal physical injury and exacerbation thereof, stress humiliation, pain, damage to reputation, and harm to his career development.

297. By and through the actions described herein, Defendant NJ Transit has engaged in a continuing pattern and practice of discrimination against Plaintiff White and has created a harassing and hostile work environment against Plaintiff White because of his race in violation of the LAD, N.J.S.A. 10:5-1, et seq.

NINTH COUNT
(Aiding and Abetting Discrimination Against
Defendants Schworn, Kelly and Wasilak)

298. Plaintiffs repeat the previous allegations as if set forth herein.

299. The LAD prohibits conduct that aids and abets unlawful discrimination and retaliation.

300. Defendants Schworn, Kelly, and Wasilak are supervisors in the Procurement Department of Defendant NJ Transit.

301. As set forth herein, Defendants Schworn, Kelly, and Wasilak engaged in active and intentional discrimination, harassment and retaliation against Plaintiffs Wilson, Horne, and Landrum.

302. As set forth herein, Defendants Schworn, Kelly, and Wasilak, acting alone and in concert, aided and abetted the discriminatory and retaliatory conduct.

303. As a direct and proximate result of Defendants Schworn's, Kelley's, and Wasilak's conduct, Plaintiffs Wilson, Horne, and Landrum have suffered and continue to suffer loss of earnings and other employment benefits, severe mental, physical and emotional

distress, stress, humiliation, physical injury, pain, damage to reputation and harm to their career development.

WHEREFORE, cause having been shown, Plaintiffs Wilson, Horne and Landrum demand judgment against Defendants NJ Transit, Schworn, Kelley and Wasilak and seek the following relief:

- A. Compensatory damages for loss of wages and benefits, pension losses, pain, suffering, stress, humiliation, mental anguish, and emotional harm, personal physical injury and exacerbation of personal physical injury;
- B. Damages for harm to reputation and career development;
- C. Reimbursement for medical expenses;
- D. Punitive damages;
- E. Attorneys' fees and costs of suit;
- F. Injunctive relief requiring remediation of Defendants' discrimination and retaliation; and
- G. Such other relief as the Court may deem equitable and just.

TENTH COUNT
(Aiding and Abetting Discrimination Against
Defendants Battersby and Clark)

- 304. Plaintiffs repeat the previous allegations as if set forth herein.
- 305. The LAD prohibits conduct that aids and abets unlawful discrimination and retaliation.
- 306. Defendants Battersby and Clark are supervisors in the Marketing and Sales Department of Defendant NJ Transit.

307. As set forth herein, Defendants Battersby and Clark engaged in active and intentional discrimination and retaliation against Plaintiff Long.

308. As set forth herein, Defendants Battersby and Clark, acting alone and in concert, aided and abetted the discriminatory, harassing and retaliatory conduct.

309. As a direct and proximate result of Defendants Battersby's and Clark's conduct, Plaintiff Long has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, stress, humiliation, physical injury, pain, damage to reputation and harm to her career development.

WHEREFORE, cause having been shown, Plaintiff Long demands judgment against Defendants NJ Transit, Battersby and Clark and seek the following relief:

- A. Compensatory damages for loss of wages and benefits, pension losses, pain, suffering, stress, humiliation, mental anguish, and emotional harm, personal physical injury and exacerbation of personal physical injury;
- B. Damages for harm to reputation and career development;
- C. Reimbursement for medical expenses;
- D. Punitive damages;
- E. Attorneys' fees and costs of suit;
- F. Injunctive relief requiring remediation of Defendants' discrimination and retaliation; and
- G. Such other relief as the Court may deem equitable and just.

ELEVENTH COUNT
(Aiding and Abetting Discrimination Against
Defendant Drisgula)

310. Plaintiffs repeat the previous allegations as if set forth herein.

311. The LAD prohibits conduct that aids and abets unlawful discrimination and retaliation.

312. Defendant Drisgula is a supervisor in the Finance Office of Defendant NJ Transit.

313. As set forth herein, Defendant Drisgula engaged in active and intentional discrimination, harassing and retaliation against Plaintiff Lewis.

314. As set forth herein, Defendant Drisgula, acting alone and in concert, aided and abetted the discriminatory, harassing and retaliatory conduct.

315. As a direct and proximate result of Defendant Drisgula's conduct, Plaintiff Lewis has suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, stress, humiliation, physical injury, pain, damage to reputation and harm to her career development.

WHEREFORE, cause having been shown, Plaintiff Lewis demands judgment against Defendant NJ Transit and Drisgula and seeks the following relief:

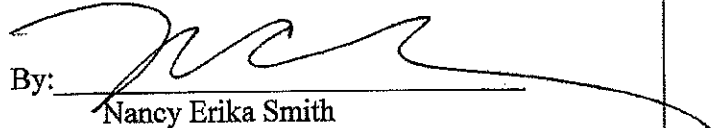
- A. Compensatory damages for loss of wages and benefits, pension losses, pain, suffering, stress, humiliation, mental anguish, and emotional harm, personal physical injury and exacerbation of personal physical injury;
- B. Damages for harm to reputation and career development;
- C. Reimbursement for medical expenses;
- D. Punitive damages;

- E. Attorneys' fees and costs of suit;
- F. Injunctive relief requiring remediation of Defendants' discrimination and retaliation; and
- G. Such other relief as the Court may deem equitable and just.

JURY DEMAND

Plaintiffs demand trial by jury on all issues that are so triable.

SMITH MULLIN, PC
Attorneys for Plaintiffs

By: 
Nancy Erika Smith

Dated: December 14, 2015

CERTIFICATION



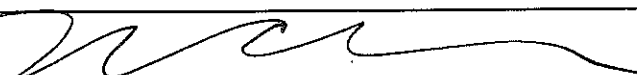
Pursuant to New Jersey Court *Rule* 4:5-1, counsel for Plaintiffs hereby certify that to their knowledge, no matter related to this one is currently pending in either arbitration or litigation.

SMITH MULLIN, PC
Attorneys for Plaintiffs

By: 
Nancy Erika Smith

Dated: December 14, 2015

Appendix XII-B1

	<h2 style="margin:0;">CIVIL CASE INFORMATION STATEMENT</h2> <h3 style="margin:0;">(CIS)</h3> <p style="margin:0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</p>		FOR USE BY CLERK'S OFFICE ONLY
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. 23
			AMOUNT: 23
			OVERPAYMENT: BATCH NUMBER:
ATTORNEY / PRO SE NAME Nancy Erika Smith, Esq.		TELEPHONE NUMBER (973) 783-7607	COUNTY OF VENUE Essex ▼
FIRM NAME (if applicable) Smith Mullin, P.C.		DOCKET NUMBER (when available) L 94-17	
OFFICE ADDRESS 240 Claremont Avenue Montclair, New Jersey 07042		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Pia Wilson, Plaintiff		CAPTION Pia Wilson, Plaintiff v. New Jersey Transit; James Schworn; Anthony Bak; Ed Baksa; and Robert Lavell, Defendants.	
CASE TYPE NUMBER (See reverse side for listing) 618	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i>.			
ATTORNEY SIGNATURE: 			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (Includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 292 PELVIC MESH/BARD |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 289 REGLAN | 601 ASBESTOS |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA |
| 291 PELVIC MESH/GYNECARE | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59