

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

PHYLLIS HOPE; WANDA WEAVER; )  
BENITA MERCER; BYRON FRY; )  
VONZELLA JACKSON; GEANNETTE )  
WALLS; JUDITH BRONAUGH; )  
LAURA JOHNSON; ALICE BELL; )  
BARBARA SHARP; HOPE LEWIS; )  
BETTY CHISM; MARILYN MCELROY )  
ROBERT NELSON; WANDA WEAVER; )  
FELECIA HICKMAN; DEBLIN THOMAS;) )  
PRESTON THOMAS; SHELIA BUMPERS;) )  
BRENDA GLAZE; MICHAEL JACKSON; )  
ALLEN GRANT. )

Plaintiffs, )

v. )

NORMANDY SCHOOLS )  
COLLABORATIVE )

Defendant. )

Case No.: 16SL-CC02812

Division: 18

**JURY TRIAL DEMANDED**

**AMENDED PETITION FOR DAMAGES**

COMES NOW, Plaintiff Phyllis Hope; Wanda Weaver; Benita Mercer; Byron Fry; Vonzella Jackson; Geannette Walls; Judith Bronaugh; Laura Johnson; Alice Bell; Barbara Sharp; Hope Lewis; Betty Chism; Marilyn McElroy; Robert Nelson; Wanda Weaver; Felecia Hickman; Deblin Thomas; Preston Thomas; Shelia Bumpers; Brenda Glaze; Michael Jackson, and Allen Grant, hereinafter collectively to as “Plaintiffs”, by and through their attorney, and files herewith their Petition For Damages stemming from violations of the Missouri Human Rights, Act Mo. Rev. Stat. §213.055. In support thereof, Plaintiff states as follows:

**Parties, Venue and Jurisdiction**

1. Phyllis Hope is an African-American female above the age of 40.
2. Wanda Weaver is an African-American female above the age of 40.

3. Benita Mercer is an African-American female above the age of 40.
4. Byron Fry is an African-American male above the age of 40.
5. Vonzella Jackson is an African-American female above the age of 40.
6. Geannette Walls is an African-American female above the age of 40.
7. Judith Bronaugh is an African-American female above the age of 40.
8. Laura Johnson is an African-American female above the age of 40.
9. Alice Bell is an African-American female above the age of 40.
10. Barbara Sharp is an African-American female above the age of 40.
11. Hope Lewis is an African-American female above the age of 40.
12. Betty Chism is an African-American female above the age of 40.
13. Marilyn McElroy is an African-American female above the age of 40.
14. Robert Nelson is an African-American male above the age of 40.
15. Wanda Weaver is an African-American female above the age of 40.
16. Felecia Hickman is an African-American female above the age of 40.
17. Deblin Thomas is an African-American female above the age of 40.
18. Preston Thomas is an African-American male above the age of 40.
19. Shelia Bumpers is an African-American female above the age of 40.
20. Brenda Glaze is a Caucasian female above the age of 40.
21. Michael Jackson is an African-American male above the age of 40.
22. Allen Grant is an African-American male above the age of 40.
23. Defendant, Normandy Schools Collaborative hereinafter “Normandy” or

“Defendant” is organized and existing under the laws of the State of Missouri, which at all times relevant herein, was doing business in St. Louis County, Missouri.

24. All of the acts complained of herein transpired in St. Louis County.

25. This action arises under the Missouri Human Rights Act, Mo. Rev. Stat. § 213, et seq.

26. Both jurisdiction and venue are proper in this Court

27. The amount in dispute or controversy exceeds this Courts' jurisdictional minimum.

### **Administrative Remedies Exhausted**

28. Plaintiffs filed charges of discrimination with the Missouri Commission on Human Rights, alleging Defendant violated Chapter 213 of the Missouri Revised Statute.

29. Plaintiffs alleged that they were not offered employment with the Normandy Schools Collaborative because of their age.

30. The Missouri Commission conducted an investigation into Plaintiffs allegations.

31. Plaintiffs requested right to sue letters less than 180 days after the date their initial charges were filed with the agency.

32. The Missouri Commission on Human Rights made a jurisdictional determination that the charges were timely filed prior to issuing right to sue letters.

33. This lawsuit was filed within ninety (90) days of the issuance of the Right To Sue Letters, which is the only prerequisite to timely filing such claims in court.

34. Defendant did not file a mandamus action against the Missouri Commission on Human Rights and/or its Executive Director, prior to the issuance of the right to sue letters.

35. Defendant's failure to file a mandamus action forecloses the right to challenge the timeliness of the charge of discrimination.

36. The Missouri Commission on Human Rights is charged with the sole

responsibility of determining the timeliness of a complaint filed with the MCHR.

37. Section 213.111, does not require Plaintiffs to timely file charges of discrimination in order to file and/or maintain the instant lawsuit pursuant to the Missouri Supreme Court.<sup>1</sup>

38. The Missouri Commission on Human Rights determined that it in fact had jurisdiction over plaintiff's claims.

39. Defendant took no action whatsoever to challenge the timeliness of Plaintiffs' complaints while they were pending and prior to the issuance of the right to sue letter, despite being on notice of the complaints.

40. Defendant cannot challenge the timeliness of the charge of discrimination as part of its defense of the instant lawsuit, as the time to do so was prior to the issuance of the right to sue letters.

41. Plaintiffs have duly met all administrative prerequisites before filing the instant action.

#### **Facts Common to All Counts**

42. Plaintiffs were employed by the Normandy School District (NSD).

43. Plaintiffs had indefinite contracts with NSD for the 2013-14 school year and prior thereto.

44. Plaintiffs were employed by NSD until the end of the school year, when the district lapsed.

45. Plaintiffs performed their jobs in a satisfactory manner from the inception of their

<sup>1</sup> See Farrow v. Saint Francis Med. Ctr., 407 S.W.3d 579, 593 (Mo. 2013)

employment until NSD lapsed.

46. The Normandy Schools Collaborative (NSC) was created after NSD Lapsed.

47. NSC sought applicants to fill the vacant positions within NSC.

48. Plaintiffs expressed interest in and/or applied for employment with NSC, but were never offered employment.

49. Some but not all of the named Plaintiffs were interviewed for employment with NSC.

50. Plaintiffs never received a response to their application and/or their interview.

51. Plaintiffs never received an explanation for why they were not hired by NSC.

52. Plaintiffs later discovered that less qualified white individuals, under the age of 40, with little or no experience, were offered employment and subsequently hired by Defendant.

## **COUNT I**

### **Age Discrimination**

#### **Intentional Discrimination**

#### **Brought by all named Plaintiffs**

Plaintiffs re-alleges paragraphs 1 through 52 hereinabove

53. Plaintiffs were forty (40) or more, but less than seventy years of age when they applied to work with Defendant.

54. Plaintiffs are members of a protected class, inasmuch as they were above the age of 40 at the time they applied for work with Defendant.

55. Plaintiffs were denied employment with NSC.

56. They were denied employment under circumstances giving rise to an inference of age discrimination.

57. NSC hired employees under the age of 40, with less experience than Plaintiffs.

58. NSC paid these younger employees substantially less than Plaintiffs.

59. NSC hired teachers that lacked certificates.

60. Many of the employees hired by NSC were incapable of teaching in an urban school district. As a result, students did not receive instruction and/or received inadequate instruction. None of them received honors level courses, as none of the new employees were capable of teaching those courses.

61. Student test scores declined or remained the same, after NSD lapsed and after the new, younger employees were hired over Plaintiffs.

62. By engaging in the behavior set forth herein above, Defendant engaged in conduct proscribed by Mo. Rev. Stat. § 213.055.

63. Plaintiffs' age was a contributing factor in the decision not to hire Plaintiffs.

64. As a direct and proximate result to Defendant's conduct, Plaintiffs have been damaged and have lost income, benefits, including health and life insurance, as well as other benefits. Plaintiffs suffered embarrassment and humiliation, damage to their personal and professional reputation and sustained emotional distress and are thus entitled to monetary damages.

65. Defendant's conduct was willful, wanton, and malicious and in complete disregard to Plaintiffs' rights.

**WHEREFORE**, Plaintiffs pray for a judgment for lost wages, lost benefits, for embarrassment, humiliation, damage to their personal and professional reputation, emotional distress, for punitive damages in an amount that will prevent the Defendant from engaging in the same or similar conduct as outlined above, attorney fees and cost and for an amount that is fair

and reasonable, along with any other such relief deemed just and appropriate by this Court.

**COUNT II**  
**Disparate Impact**  
**And**  
**Pattern and Practice Discrimination**

Plaintiff re-alleges paragraphs 1 through 65 hereinabove

66. NSC developed and administered a hiring process designed to identify qualified teachers or administrators for employment with NSC.

67. The hiring process was used, in part, to determine whether or not former teachers of the Normandy School District would be hired by NSC.

68. NSC developed numeric criteria comprised in part of the aggregate of written test scores, points derived from interviews and, for former employees of NSD, numeric values associated with prior performance evaluations.

69. NSC developed a numeric “cut off” based on the numeric criteria mentioned hereinabove, to determine if and/or when former employees of the Normandy School District would be afforded interviews for employment with the new district.

70. However, NSC “relaxed” the hiring standard for a number of employees failing to meet the numeric cut off, allowing them to interview for and obtain employment with the new district.

71. Applicants without prior teaching experience, were not by the same standard as employees of the NSD, inasmuch as to performance evaluations were not applicable and/or considered.

72. Of the Plaintiffs that were offered interviews, none were given ample time to prepare lesson plans.

73. The hiring process used by NSC had a disparate impact on Plaintiffs as well as others, over the age of 40, seeking employment with the Normandy Schools Collaborative.

74. The hiring process used by Defendant, was flawed and proved an unreliable barometer of success, as a number of “younger” teachers hired pursuant to the aforementioned hiring process, failed to meet Defendant’s expectations and/or were otherwise not qualified.

75. Defendant implicitly acknowledged the inherent flaws in the hiring process, as it circumvented the “objective” hiring criteria by hiring individuals that failed to meet the numeric cutoff mentioned hereinabove.

76. There were other, less draconian ways to screen applicants that would have a less significant impact on African-American teachers over the age of 40.

77. NSC not consider whether or not the aforementioned hiring process would have an undesired impact on plaintiffs before implementing it.

78. By engaging in the behavior set forth herein above, Defendant engaged in conduct proscribed by Mo. Rev. Stat. § 213.055.

79. As a direct and proximate result to Defendant’s conduct, Plaintiff has been damaged and has lost income, health insurance, and other benefits; Plaintiff has suffered embarrassment and humiliation damage to her personal and professional reputation and sustained emotional distress and is entitled to monetary damages therefore.

80. Defendant’s conduct was willful, wanton, and malicious and in complete disregard to Plaintiff’s rights.

**WHEREFORE**, Plaintiffs pray for a judgment for lost wages, lost benefits, for embarrassment, humiliation, damage to her personal and professional reputation, emotional distress, attorney fees and cost and for an amount that is fair and reasonable, along with any

other such relief deemed just and appropriate by this Court.

**COUNT III**

**CLAIMS ARISING UNDER 42 USC SECTION 1981**

**BROUGHT BY**

Phyllis Hope; Wanda Weaver; Benita Mercer; Byron Fry; Vonzella Jackson; Geannette Walls; Judith Bronaugh; Laura Johnson; Alice Bell; Barbara Sharp; Hope Lewis; Betty Chism; Marilyn McElroy; Robert Nelson; Wanda Weaver; Felecia Hickman; Deblin Thomas; Preston Thomas; and Allen Grant.

Plaintiffs re-alleges paragraphs 1 through 80 hereinabove

81. Plaintiffs identified in Court III, hereinabove, are of African-American descent, and are thus in a protected class.

82. Plaintiffs sought employment with NSC.

83. Plaintiffs were qualified for the desired positions.

84. NSC refused to hire plaintiffs.

85. NSC hired Caucasian individuals over plaintiffs.

86. The Caucasian individuals hired by NSC were less qualified than Plaintiffs.

87. The Caucasian individuals hired by NSC were had little, if any experience.

88. NSC is comprised of many “at risk” students, thus requiring specific attention.

89. The Caucasian individuals hired by NSC were ill prepared to teach “at risk” students.

90. Plaintiffs were in the best position to work in this district in light of the aforementioned.

91. Plaintiffs suffered adverse employment actions as a result of defendant's decision to hire less qualified white individuals.

92. An inference of improper motivation is properly drawn from defendant's actions.

93. As a direct and proximate result to Defendant's conduct, Plaintiffs have been damaged and have lost income, health insurance, and other benefits; Plaintiff have suffered embarrassment and humiliation damage to their personal and professional reputations and sustained emotional distress and are entitled to monetary damages.

94. Defendant's conduct was willful, wanton, and malicious and in complete disregard to Plaintiffs' rights.

**WHEREFORE**, Plaintiffs pray for a judgment for lost wages, lost benefits, for embarrassment, humiliation, damage to their personal and professional reputation, emotional distress, for punitive damages in an amount that will prevent Defendant from engaging in the same or similar conduct as outlined above, attorney fees and cost and for an amount that is fair and reasonable, along with any other such relief deemed just and appropriate by this Court.

Respectfully Submitted,

/s/Christopher B. Bent #45875

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on November 30, 2017 Plaintiffs served their First Amended Petition on Defendant via electronic mail attachment, to the following:

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/s/ Christopher Bent