

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

[REDACTED] Crawford

[REDACTED]

[REDACTED] douard

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Holliman

[REDACTED]

[REDACTED] Barnett

[REDACTED]

[REDACTED] Holliman

[REDACTED]

[REDACTED] Swain

[REDACTED]

[REDACTED] Valentine

[REDACTED]

[REDACTED] Joyner

[REDACTED]

[REDACTED] Stewart

[REDACTED]

Case No.: 4:14-cv-00130-AWA-LRL

JURY TRIAL DEMANDED

Judge Arenda Wright Allen

SECOND AMENDED COMPLAINT

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Bostic

[REDACTED]

[REDACTED]

[REDACTED] addell, Sr.

[REDACTED]

[REDACTED]

[REDACTED] Smith

[REDACTED]

[REDACTED]

[REDACTED] **Gordon**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **Robinson**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **hesson**

[REDACTED]

[REDACTED]

[REDACTED] **Pierce**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **ayton**

[REDACTED]

[REDACTED] **alker**

[REDACTED]

[REDACTED]

[REDACTED] **Payton**

[REDACTED]

[REDACTED]

Plaintiffs,

vs.

**Newport News Industrial
Corporation,**
182 Enterprise Drive
Newport News, VA 23603

Defendant.

INTRODUCTION

This is an employment discrimination case alleging a racially hostile work environment, racial discrimination, and retaliation, pursuant to 42 USC §1981, and gender discrimination and retaliation, pursuant to 42 U.S.C. § 2000e, et seq. (“Title VII”).

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs

are current and former African-American employees of Newport News Industrial Corporation (“NNI”).

2. Defendant Newport News Industrial Corporation (“NNI” or “Defendant”), is a Virginia Corporation and a subsidiary of Huntington Ingalls Industries, Inc. Its facility and principal place of business are located in Newport News, Virginia. NNI is an employer within the meaning of 42 USC Sec. 2000. Plaintiffs and Defendant had a contractual relationship within the meaning of 42 USC Sec. 1981.

3. This Court has jurisdiction pursuant to 28 U.S.C. Sec. 1343.

4. With respect to Plaintiff Crawford's claims pursuant to 42 USC 2000e, Plaintiff

Crawford filed a Charge of Discrimination with the EEOC, which issued a Notice of Right to Sue. The initial Complaint dated September 30, 2014, was filed less than 90 days from receipt of said Notice.

5. Plaintiff [REDACTED] brings claims pursuant to the Family Medical Leave Act of 1993 (“FMLA”) 29 U.S.C. § 2601 et seq. Defendant is an “employer” as defined by FMLA, 29 U.S.C §2611(4) and Plaintiff Smith is an “eligible employee” as defined in FMLA 29 U.S.C. §2611(2).

6. Venue is proper in this district, pursuant to 42 U.S.C. § 2000e-5(f), 29 U.S.C. §2617, 28 U.S.C §1331, and 28 U.S.C. § 1391, because the conduct complained of herein took place within this judicial district and the defendant is subject to personal jurisdiction and headquartered here.

PROCEDURAL HISTORY

7. On or about January 3, 2013, NNI received a document preservation letter indicating that Crawford, [REDACTED] Edouard, [REDACTED] and Reginald Holliman, Valentine and [REDACTED] tended to sue NNI for racial harassment/hostile work environment, disparate treatment and retaliation, as well as for gender discrimination and retaliation on behalf of Crawford.

8. On September 30, 2014, Crawford, Edouard, [REDACTED] and [REDACTED] Holliman, Valentine, Swain and Barnett filed a Civil Action Complaint against NNI.

9. NNI executed a Waiver of Service on January 21, 2015. Plaintiffs filed an amended complaint within 21 days of service of the Complaint on February 11, 2015. The

instant Second Amended Complaint is filed by consent of the parties and with Court approval to add Plaintiffs and claims against NNI.

VIOLATION OF THE FAIR PAY AND SAFE WORKPLACES EXECUTIVE ORDER

10. NASA, the U.S. Department of Energy and the U.S. Department of Defense, are major customers of Defendant.

11. The conduct alleged herein violates the Fair Pay and Safe Workplaces Executive Order issued by President Obama on July 31, 2014, and a judgment on this action would require that NNI be barred by the Department of Labor from receiving federal contracts.

ORGANIZATIONAL STRUCTURE OF NEWPORT NEWS INDUSTRIAL CORP.

12. NNI fabricates tanks, pressure vessels, and piping. It installs and replaces plant components on-site. It services pumps, hydraulic equipment, turbines, diesels and other plant equipment. It provides engineering, shock analysis and testing, laboratory testing, services, and sells certain related products. It has specific expertise in welding to the standards required on nuclear submarines and aircraft carriers.

13. As of January of 2013, less than ten African-American employees at NNI were “permanent” employees, including secretaries and support staff.

14. Peter Daikun is the President of Newport News Industrial Corporation and the Vice President of Newport News Shipbuilding. He has been in this position since 2012. Steve Napiecek is the Vice President of Newport News Industrial Corporation and its General Manager. He has been in this position since 2010.

15. Scott Jones is the Operations Manager at Newport News Industrial Corporation. Superintendents report to the Operations Manager. They are responsible for managing projects

and supervising production and maintenance employees, including foremen and tradespeople. Superintendents at NNI have included, from 2008 to the present, Richard Tally, Doug McKercher, and Doug Todd. Superintendents have the authority to hire and fire employees. No African-American has occupied a superintendent position at NNI in at least the last six years.

16. Foremen are production and maintenance employees. They directly supervise teams of tradespeople including welders, machinists, and fitters. Foremen report to superintendents. Foremen at NNI have included Kevin Angle, a welding foreman, Jeff Riley, a welding foreman, Tommy Jaffeux, a fitter foreman, and Wayne Jackson, a fitter foreman. On information and belief, NNI has approximately 10 to 15 foremen. Prior to January 2013, no African-American had occupied a foreman position.

17. Make-up supervisors or step-up supervisors are production and maintenance employees. They are temporarily authorized to supervise teams of tradespeople when Foremen are unavailable or more supervisors than are available are needed on a project. Prior to January 2013, no African-American has occupied a make-up supervisor or step-up supervisor position.

18. NNI employs approximately 150 to 200 tradespeople. Tradespeople at NNI are production and maintenance employees. They include but are not limited to structural welders, structural fitters, pipe fitters, pipe welders, machinists, electricians, and laborers.

19. NNI production and maintenance employees perform physically demanding work. They fabricate large metal structures spanning hundreds of feet. Tradespeople at NNI often specialize in specific trades and seek to gain skill and experience within a particular field. Laborers are unspecialized entry level positions. They perform physical labor in support of specialized tradespeople. Customarily, as a trades person improves in skill and experience, his

increased proficiency is recognized by title or rank. For example, as a welder gains greater skill and experience, he is promoted from third class, or entry level welder, to second class, or semi-skilled welder, to first class, advanced welder. Progress from a basic skill level to an advanced skill level can take ten years or more. Employees work with the goal of increasing their skill level, title or rank, and consequently, their rate of pay.

20. Maintenance and production employees have primarily worked at five locations at NNI: the Main Building, at 182 Enterprise Drive, Newport News, VA, outside the Main Building, space that was shared with Swisslog Logistics, known as the "Swiss Log," at 161 Enterprise Drive, Newport News, VA, "Oyster Point" building, new Oyster Point, Newport News, Va and the Warehouse. Other areas at NNI include, but are not limited to, a facility near Fort Eustis and a facility on Jefferson Ave near Newport News.

21. The Main Building is subdivided into work-spaces for the various trades. It also houses NNI's administrative offices. Work-spaces in the main building include, but are not limited to, a work-space for fitters and welders, a work-space for machinists, known as the machinists' shop, a work-space for pump makers, known as the pump shop, and a work-space for electricians, known as the electricians' shop.

22. The area outside the Main Building is used for large projects.

23. The Swiss Log was closed in or around 2013. It was primarily used as a work-space by welders and fitters. It was located directly across the street from the Main Building.

24. The warehouse is a ten minute car ride from the main building. It is a storage space.

NNI IS A JOINT EMPLOYER, ALONG WITH STEEL AMERICA

25. Steel America, a Virginia corporation, is a custom steel fabrication shop and large scale machining service, which provides on-site services and labor for certain NNI projects.

26. NNI and Steel American jointly employ Plaintiff Nasser Marshall and jointly employed John Harris.

27. NNI maintains significant control of the terms and conditions of Plaintiffs Marshall and Harris' employment when Plaintiffs work at NNI.

28. NNI supervisors hold morning meetings at which they provide daily, individualized assignments, and safety and other information to, among others, Plaintiffs Marshall and Harris.

29. During morning meetings, employees are given job assignments, each job having its own supervisor. NNI assigns Plaintiffs Marshall and Harris to jobs supervised by either Steel America-provided supervisors, or NNI supervisors.

30. NNI enforces its work and safety rules, and other policies, which are applied equally to workers, whether hired directly by NNI or provided by Steel America, including Plaintiffs Marshall and Harris, except that Plaintiffs Marshall and Harris have not received a policy or training in connection with harassment or discrimination. Steel America has no written policy specifically concerning racial harassment.

31. NNI controls whether Steel America-provided employees, including Plaintiffs Marshall and Harris, have permission to be on NNI premises, and where (such as lunch rooms/conference rooms), and provides official NNI badges to those to whom it grants access.

32. NNI reimburses Steel America for Plaintiffs Marshall and Harris' compensation, and NNI has the power to, and does, affect their compensation.

33. NNI sets Plaintiffs Marshall and Harris' shift schedule, and shift length, such as eight or ten hour days.

34. NNI sets Plaintiffs Marshall and Harris' weekly schedule, including the number of hours per week.

35. NNI decides when Plaintiffs Marshall and Harris may take their lunch or other breaks.

36. NNI decides who will undergo qualifications testing, and supervises and controls testing of all employees, including Steel America-provided employees Marshall and Harris. NNI determines in its sole discretion whether employees have passed the qualifications tests.

37. Employees who are TIG qualified, as determined by NNI, are eligible for more overtime and more weekly hours, than workers who are not TIG qualified. For example, workers who have only the Flux-Cored certification often work 40 hour work weeks, whereas TIG qualified workers often are scheduled for 66 hour work weeks.

38. Employees who become TIG qualified are supposed to receive raises in their hourly rate.

39. NNI supervisors, directly and/or indirectly, provide assignments, direction, methods, and supervision to Steel America-provided employees, including Plaintiffs Marshall and Harris. NNI supervisors give instruction and job direction to Steel America-provided workers, including Plaintiffs. Further, NNI supervisors often instruct Steel America supervisors on exactly what to tell Steel America-provided workers, such that Steel America supervisors are frequently merely conduits, or “middlemen,” for passing along information.

40. Work performed by Steel America-provided labor, including Plaintiffs Marshall

and Harris, must be performed to the satisfaction of NNI. In the event that NNI is not satisfied with the performance, NNI controls whether it must be re-done or altered, and provides instruction on altering the work.

41. NNI controls where Steel America-provided employees park on site.

42. NNI provides equipment to Steel America-provided employees, including welding machines, and other equipment without which employees such as Plaintiffs cannot complete their assignments. NNI provides welding sleeves, air protection materials, materials for grinding, such as pads, and welding wire among other materials.

43. NNI requires and administers various tests prior to any Steel America-provided employee being able to work at NNI. Plaintiffs Marshall and Harris took and passed a nuclear test, vision test, welding tests, and completed other required paperwork, administered by NNI personnel.

44. NNI has the power to impose and has imposed discipline on Steel America-provided employees, including suspension without pay.

45. NNI has the the power to terminate Steel America-provided employees.

I. Pattern or Practice Allegations

46. Racial segregation, harassment, disparagement and abuse of African-American workers, and starkly different pay, training and promotion opportunities, permeates employment at NNI. With a production workforce that is more than one third African-American, there was not a single African-American make up supervisor, Foreman, Supervisor, Superintendent, or Manager at NNI, as of January 2013, when plaintiffs sent Steve Napiecek a notice advising that they were suing NNI for racial harassment and discrimination.

47. That was not a coincidence. This pattern or practice reflects the beliefs of NNI's managers that African-Americans are inferior to whites.

48. Huntington Ingalls Industries, (HII or Huntington Ingalls), NNI's parent company, and NNI, are a single, integrated employer. Huntington Ingalls shipyard, controls all personnel and payroll functions at NNI, and conducts all of the testing necessary for promotion. Thus, it is directly accountable for the enormous disparities in opportunity for African-Americans at NNI. Huntington Ingalls pays NNI production employees with Huntington Ingalls paychecks. As explained below, NNI production employees who became "permanent" prior to March 2014, work at the Huntington Ingalls shipyard, when work is slow at NNI.

RACIAL SEGREGATION AT NNI

Dining Facilities

49. NNI cannot put up signs prohibiting African-American from using eating facilities, but it makes its intent clear nonetheless.

50. In May 2014, Plaintiffs [REDACTED] Roderick Waddell, Sr., [REDACTED] addell, [REDACTED] Swain, [REDACTED] Marshall, [REDACTED] Harris, along with Sean [LNU], O' Brien [LNU], John Green, and Rodney [LNU]--all African-American--began eating lunch in a conference room adjacent to Scott Jones' office. Jones is NNI's Operations Manager. A sign inside on the wall said "please leave the room as it was when you entered," which they interpreted to mean if you eat lunch here, clean up after yourself. The conference room was also used by Ronald Blackburn, who is white. They ate there frequently without incident until October 7, 2014.

51. On October 7, 2014, African-American employees [REDACTED] arshall, [REDACTED] Waddell, Sr. and [REDACTED] Sean [LNU], Obrien [LNU], John Green,

Rodney [LNU], and white NNI employee Ronald Blackburn, were eating lunch.

52. Doug McKercher, Superintendent, walked in and stated “you all can’t eat in here anymore.” All of the African-American began gathering their food and belongings, preparing to leave. Ronald Blackburn continued eating. He did nothing to indicate he was going to move.

53. McKercher stated “you all have to leave.” Again, Blackburn continued eating, and McKercher gave no indication that he wanted Blackburn out.

54. Plaintiffs and the other African-American workers began leaving, slowly, checking to see whether McKercher would tell the one white employee using the facility to vacate. He did not.

55. Plaintiffs concluded that McKercher’s “you all” commands were directed only at the African-Americans in the room.

56. Blackburn stayed in the room and finished his lunch, the African-American workers were chased out, and that was the way it remained thereafter. The one or two times Plaintiffs have gone back to try to eat in the conference room, they have been chased out again.

57. NNI permits Blackburn and other white employees to eat lunch in the room. However, it has added a sign outside the room, saying “no eating,” as if to justify keeping Plaintiffs out. The sign reminding users to clean up remains.

Coffee facilities

58. For as long as Plaintiffs can recall, there had been a coffee facility located in the Administration area of the main building, on Enterprise Drive. Scott Jones, NNI Operations Manager, and those managers who report to him, work in this area.

59. All of the Supervisors and Managers who worked in that area were white.

60. There was also an outdoor trailer where coffee was sometimes available. This facility was not segregated, but it frequently ran out of coffee. It was also less desirable because it was outdoors rather than in a heated and air-conditioned office, which was cleaned daily.

61. Plaintiffs' white coworkers were allowed to use the coffee facility in the Administration area. African-American NNI workers believed they were unwelcome.

62. Alfred Joyner would sometimes ask white co-workers, such as Scott Galloway, to go into the Administration area to get coffee for him.

63. In or about late 2010, several African-American workers, including Plaintiffs Valentine, Crawford, Barnett and others, became fed up, and started getting coffee from the indoor Administration area.

64. Not long after, without warning, without a posting of any change in policy, the indoor coffee facility--the coffee maker the table, everything--was removed. Jeff Riley and Tom Jaffeux told Plaintiffs "you all no longer can drink coffee out of there."

65. Rather than have an integrated coffee area in proximity to its managerial suite, NNI chose instead to shut down the facility completely.

66. This was not a management-only coffee facility, where plaintiffs were excluded because all non-managerial workers were excluded. Management had always had, and continued to have, their own coffee facility, upstairs. The decision to close it down was purely a result of seeing too many African-Americans using the facility.

Segregated Workforce

67. NNI segregated its workforce into two classes of workers. A 98% majority white permanent workforce enjoyed the benefits of health insurance, a 401K, and approximately two

weeks of paid vacation time annually. Becoming permanent meant that they were Huntington Ingalls shipyard employees, and when they were laid off at NNI, they worked at the shipyard.

68. A less-advantaged temporary work force, to which almost all African American employees belonged, including Plaintiffs Valentine, Crawford, Reggie Holliman, Edouard, Kershaw, [REDACTED] olliman, Barnett, and Swain, was regularly laid off every eleven months, received no health benefits, no 401K benefits, and no paid vacation time. The temporary workers were not given automatic employment at Huntington Ingalls during the regular layoffs.

69. In or around March 2014, 14 months after NNI's receipt of Plaintiffs' document preservation letter, which gave notice that Plaintiffs would bring suit for race discrimination, NNI scrambled to blur the stark contrast between the two classes of workers. Temporary workers, including plaintiffs, and all new hires, became what were called "permanent" NNI employees. But the new "permanent" was nothing like the old. It conferred a fraction of the vacation time, and the health benefits carried premiums more than double what the old permanent class paid. Moreover, they received no layoff protection.

70. White workers who had gained entry into the privileged class work side-by-side with the newly minted African-American permanent employees, performing the same work. The privileged, white employees received affordable health benefits, for example paying \$120 for a family of three, a 401K policy, accident insurance, and almost 2 weeks of paid sick leave and vacation days. The benefits provided to the newly-minted permanent class do not come close to those received by the initial class of permanent workers. For example, the new class was not guaranteed work at Huntington Ingalls, accumulated paid vacation at a slower rate than the privileged class, and rarely could afford health insurance priced at \$266 for a family of three.

Segregated Work Assignments

71. Overwhelmingly, African-American employees are more likely to be assigned dangerous, dirty or unpleasant work, than white workers.

72. More than 90% of tradespeople assigned to the “pin jig” project were African-American. The “pin jig” project was on-going between 2009 to 2011, and required workers to work through freezing temperatures, rain, and heat to assemble curved hull surfaces of a ship.

73. The “pin jig” project was referred to as junk work because it required little skill and limited the ability of workers to develop their craft to progress in their trades. On the “pin jig” project, African-American tradespeople were forced to work with no breaks. They were compelled to stand for hours at a time and were not able to enjoy the basic comforts of coffee and snacks to ease the hardships of their difficult work, as white employees could throughout their work day.

74. After the “pin jig” project was completed, African-American workers on the project were terminated; white employees on other projects were not treated in the same or a similar manner.

75. Between 2009 to mid-2013, approximately 80% of tradespeople assigned to work at the Swiss Log were African-American. In comparison, over the same time period, approximately 85% of the tradespeople assigned to work at the main building, nicknamed the “white house,” were white. Large welding and fitting projects were initiated in the Swiss Log and transferred to the Main building for further more detail-oriented work.

76. The work at the Swiss Log was more physically demanding and dirtier than work at the Main building. African-American workers were required to stand for long hours with little

rest. They were monitored constantly, had their bathroom breaks timed, and worked without coffee or snacks, unlike white employees.

77. The work at the Swiss Log required less skill than the work available at the Main building, and limited the ability of African-American workers to develop and progress in their trade.

78. From 2011 to the present, most sandblasting work has been assigned to African-Americans. Without training, African-Americans are assigned to handle grit spewing out from the sandblaster at 120 psi (pounds per square inch), a second's misdirection of which easily penetrates a worker's clothing. Handling the hose itself for thirty minutes requires a worker to rest to relieve muscles and joints from stress.

79. Sandblasting work requires African Americans to work outside, in any and all weather. Even when conditions are windy, and the sandblasting hose more likely to misdirect, African American workers are required to blast.

80. NNI requires African-American workers to sandblast in precarious positions, such as from on top of a ladder, holding the hose overhead. If an African-American worker protests the dangerousness of the job, he is threatened with a transfer to an undesirable shift.

81. From approximately 2009 or earlier to the present, African-American welders have been assigned significantly more arc welding work than Caucasian workers. The process is dangerous because it produces toxic gases, such as carbon monoxide, as a by-product. Caucasian welders are generally assigned to arc welding work only if an African-American welder is unavailable.

FOSTERING RACIAL HARASSMENT

82. Senior managers who lead NNI share the belief that African-Americans are inferior to whites. They harbor additional stereotypes. These beliefs inform the manner in which they treat their African-American subordinates.

83. Scott Jones, Operations Manager, reports to Vice President Steve Napiecek. When white employees engage in threats of violence towards African-American workers, Scott Jones finds it amusing. James Adams threatened to stab plaintiff Ian Blow in the neck with a pen. Scott Jones laughed when he was informed.

84. Plaintiff Bostic had an accommodation for his Type II diabetes; he was allowed to take breaks to snack. Bostic was frequently harassed by racist supervisors who were aware of the accommodation, but could not let go of their belief that because Mr. Bostic was African-American, he must have been slacking off when he took breaks. When one supervisor ordered Mr. Bostic to “get your mother fucking ass back to work,” he complained to Scott Jones. Instead of reprimanding the Supervisor, Jones defended the supervisor, and berated Bostic.

85. Jones would walk through the shop. If he saw that an African-American employee was not physically working, he would tell Wayne Jackson to tell the worker to get back to work. But when Jones saw white workers not working, he would just talk with them.

86. Doug McKercher, NNI Superintendent, reports directly to Scott Jones, the Operations Manager. McKercher constantly monitors plaintiffs, commenting whenever they take bathroom breaks, “you’ve been in the bathroom for ten minutes,” even if they were in for five minutes. He tracks Plaintiffs’ whereabouts, asking, “why aren’t you in your area” or “why’re you here, you should be blasting.” He never engages in this behavior towards white workers.

87. McKercher regularly instructs supervisors to tell African-Americans to “get back

to work.” When they have complained to their supervisor that white workers were also taking breaks, they were told “that’s just the way it is.”

88. When McKercher became aware that Mel Walden, a Supervisor, was actually mixed race (African-American and Native American), despite “looking” white, he told Walden that he would prefer that a white, junior worker, supervise his projects. Walden lost his Supervisor position, and the junior white worker was paid more than Walden.

89. Doug Todd, the Night Shift Superintendent, reports to Scott Jones. He refers to plaintiff [REDACTED] Joyner’s dreadlocks as “shitlocks.” He remarks that “you people always sagging your pants,” and “in your culture brothers sag their pants.” He asked Plaintiff Chris Payton, “you bangin’ a gang?” Todd constantly refers to African-Americans as “you people.” For example, he will say “I leave for a minute and you people are out here basically fucking off.” He does not speak to white employees this way.

90. Ruel Scott, Night Shift Supervisor, calls African-American welders “lazy.” Irrespective of how senior or skilled they are, he tells them they cannot weld. On multiple occasions Scott admitted to Plaintiff Ernest Chesson, “I shouldn’t say the things I say to certain [black] people...someone might call the hotline on me.”

91. Jeff Riley, a Foreman employed by NNI from March 2010 to mid-2012, frequently used “yo,yo,yo,” “bubba” and “boy” to refer to Plaintiffs. He would greet Plaintiffs with, “what’s up my nig,” or “my n*gger.” He stereotyped the mannerisms of African-Americans, grabbing his crotch and affecting a “pimp stroll.” He frequently made racist comments about African-American workers at meetings, for example, Riley would ask, “why ya’ll black people can’t ever be on time, “why’re you always late,” or “why are y’all people

always lazy, after you eat.” Mr. Riley was not terminated for engaging in racial harassment or discrimination.

92. Tom Jaffeux, a Foreman, regularly harassed African-American workers. At morning meetings, Jaffeux threatened the jobs of African-Americans, saying, “I’m going to get rid of somebody.” He referred to African-American workers as “bitches.” He routinely reprimanded African-American workers while ignoring the infractions of white workers. For example, he would remark to African-American workers, “y’all brain dead, and y’all know who I’m talking to, I’m going to leave it like that.” Mr. Jaffeux was not terminated for engaging in racial harassment or discrimination.

93. Wayne Jackson, a Site Manager, signs his name “General Jackson,” on his weld inspections. His African-American subordinates believe he does this to emphasize his role as slave master. Incredibly, Jackson made the ridiculous accusation that Plaintiff Gordon, an excellent welder who signs his welds “Black Ice” (to signify how smooth they were), was a gang member and “black ice” was a gang name. He has accused three Plaintiffs of gang activity.

94. Jackson monitors African-American workers’ bathroom breaks and follows them to the bathroom to tell them they are taking too long. He reprimands African-American employees for getting coffee in the morning, while ignoring Caucasian employees doing the same. When African-Americans stop working momentarily, for example, to discuss the work they are doing, he screams at them. He does not treat white workers in this way. In fact, when white workers take breaks, he chats with them, and treats them collegially.

95. Steve Sheg, a make-up supervisor, has used the N-word on multiple occasions to refer to African-American workers.

96. Tom Hines, a supervisor, displays confederate flags on the back window of his car and his license plate, and he parks at the NNI lot. He constantly threatens the jobs of African-American workers. He yells at African-American workers to get back to work when they are on break. He demeans African-American workmanship. For example, he has commented that a majority of African-American welders employed at NNI are not capable of good work. He does not treat Caucasian workers in this way.

97. Plaintiffs' co-workers routinely engage in racial harassment. Confederate flag t-shirts and bandannas are openly worn by employees. They are displayed on cars, lockers and toolboxes. All in plain view of supervisors. One worker wore a t-shirt captioned "redneck fishing," which depicted a white man fishing by holding a black man upside down and underwater (the "redneck fishing t-shirt").

98. Tom Castle made daily racial jokes. For example, Castle remarked, "what's the difference between a dog in the street and a black man in the street? Skid marks in front of the dog." He was the subject of numerous complaints. He left due to an injury in 2011. Plaintiffs are unaware of any discipline meted out to Castle. The racial harassment continued until the day he left, in plain view of supervisors.

99. While confederate flags are freely displayed by workers at NNI, t-shirts with President Obama's image have been prohibited.

Bathroom Stall and Urinal Monitoring

100. The belief of defendant's senior managers that African-Americans are lazy and untrustworthy is reflected in their obsessive observation of African-American employees using the restroom. Defecating and urinating are not private experiences for Plaintiffs and their

African-African coworkers, as they are for white employees, but openly observed by supervisors.

101. For a span of two years, Wayne Jackson regularly followed Plaintiff Chisman into the bathroom and peeped into his stall while he was defecating. Plaintiff Chisman would find an eye peering through the crack of the bathroom stall while he was sitting on the toilet. Plaintiff Chisman would say, “what,” hoping that Jackson would stop watching him through the crack. Jackson would leave for a short time, only to come back to peer at Plaintiff. The peeping behavior was not isolated to Jackson, Supervisor Jaffeux, while he was supervising Plaintiff Chisman, would also similarly peek into Plaintiff Chisman's stall to tell him he was taking too long.

102. Plaintiff Reggie Holliman was also subjected to similar bathroom monitoring on regular basis by both Jackson and Jaffeux. While Plaintiff Holliman was sitting in the bathroom stall defecating, he would see Jackson watching him through the $\frac{3}{4}$ inch gap between the stall's doors. Jackson would linger in the bathroom, coming back every few seconds to peer at Plaintiff through the gap. Jaffeux also would peer at Plaintiff through the gap in the bathroom stall's doors, on an almost monthly basis while he was supervising Plaintiff Holliman, asking, “Reggie are you in there?” On one occasion, Plaintiff observed Jaffeux staring at his penis and quickly moved to close his legs.

103. Supervisor Slaughter followed Plaintiff Dennis Smith into the bathroom. While Plaintiff Smith was urinating, Plaintiff Smith saw Slaughter in the bathroom mirror watching him. Plaintiff became flustered and left the bathroom without washing his hands.

104. Plaintiff David Swain, after observing Jackson regularly peering in on him while he was defecating began hanging toilet paper onto the gap between the stall doors to block out

Jackson's intrusive gaze. Even so, Jackson continued to follow Plaintiff Swain into the bathroom, and would come to the stall, saying “what are you doing in there, shouldn’t take you that long.”

105. Plaintiff [REDACTED] Holliman was followed into the bathroom by Steve Sheg and told, “come out.”

106 Arthur Cofield, an African-American worker, also noticed Jackson peering into his stall regularly. Jackson would walk back and forth through the stalls, periodically coming back to check on Cofield through the slit between the stall doors.

107. Plaintiff Chris Payton detailed his experience being watched by supervisors while he was in the bathroom in a complaint to the human resources department. He stated:

On February 26 2015 at 6:35pm I was on my job and I decided to go to the bathroom to use the facilities. When I entered all the stalls were taken except the last stall, the third one. When I went into the stall I notice that there was left over droppings on the toilet seat. I tried my best to wipe the seat but couldn't get all of it off and there was no more seat covers in the stall so instead of sitting directly on the toilet i turned sideways so my butt wasn't touching the spot while my pants where down. By me sitting that way causes me to lean over with my elbow on my knees to be comfortable. After 10 mins passed I noticed someone came and peeked through the stall but I thought it was a coworker trying to see if the stall is vacant. Five mins later someone came again and peeked and walked out. I then begin to think something was up so I wiped myself and pulled my pants up sat back down to tie my shoes to only hear someone knocking on the stall. I open it within 4 seconds and out standing was supervisors Penny Sarg and Jim telling me that they have been peeking through the stalls and summarizing that I was sleep. I then told them I wasn't and that they invaded my privacy and that is sexual harassment on there part. They told me to write a statement.

108. Because NNI supervisors do not believe that whites are lazy, they are not watched while using the restroom. When a white worker is caught sleeping in a stall—or elsewhere—it is excused because of managers' bias. For example, Ricky Penrod has been observed sleeping more than once in the bathroom stall, but is still employed. Plaintiffs are unaware of any discipline

meted out.

RACIAL DISCRIMINATION IN COMPENSATION AND PROMOTION

109. NNI has a pattern or practice of hiring African-American tradespeople at wage rates lower than white tradespeople of similar or lesser skill. Supervisors evaluate candidates and negotiate rates of pay, which are then approved by Huntington Ingalls Human Resources Department.

110. Until approximately March of 2014, tradespeople were told at hire that their work would be evaluated over a four month period and they would receive monthly raises over that period to reach their final hourly wage. In reality, African-American hires were far less likely to receive their raises than white employees.

111. Wage rate differentials at NNI between African-American tradespeople and Caucasian tradespeople of similar skill widen over time. The differential in wage rates between inexperienced African-American tradespeople and inexperienced whites tradespeople is even wider.

112. NNI has a pattern or practice of awarding off-site work to Caucasian workers more often than qualified African-American employees. Off-site work is often paid at a higher hourly wage rate than on-site work and includes a per diem stipend.

113. NNI has a policy or practice of permitting supervisors discretion in deciding how to compensate production workers. Bias against African-Americans is the common mode of exercising that discretion.

114. NNI has a pattern or practice of denying promotions to African-American workers for which they are qualified. Few African-American tradespeople have been promoted to a

higher rank or position at NNI from the position at which they were originally hired.

115. In contrast, white employees are hired with little or no experience in the trades, and are promoted to supervisory positions and assigned to supervise African-American tradespeople, who have vastly more experience.

116. NNI has a pattern or practice of failing to post job openings, or only posting such openings after decisions to hire or promote non-African-Americans have already been made.

117. NNI has a pattern or practice of giving African-Americans fewer opportunities for training in the skills required to increase their eligibility for promotion. Unwritten requirements, such as additional certifications and training are required of African-American tradespeople relative to white employees seeking the same job.

118. NNI has a pattern or practice of permitting supervisors discretion in deciding whom to promote. Bias against African-Americans is the common mode of exercising that discretion.

119. NNI has a policy or practice of awarding more overtime work to white workers than to African-American employees. White employees are given preference for overtime work over African-American workers of similar or greater skill.

120. White workers are overwhelmingly selected for crane training and certification, while African-American workers are not. Without crane certification, African-American tradespeople must wait for crane certified employees to move heavy steel materials with which tradespeople commonly work. African-American workers are compelled to choose between waiting for others to move heavy materials and risk reprimand by their supervisors for being too slow, or to move the heavy materials by hand and risk injury.

121. NNI fails to accommodate the injuries and disabilities of African-American tradespeople. The jobs of African-American workers are threatened if they seek accommodation. In comparison, white tradespeople who are similarly situated, are regularly accommodated for their injuries and disabilities. African-American workers are fired for minor infractions, while white workers often suffer no consequences for the same infractions.

122. When an accident occurs at NNI, those involved in the accident are required to be drug tested. This rule is consistently applied against African-American tradespeople but inconsistently applied to white tradespeople. African-American workers suffer more severe consequences for a positive drug test than white tradespeople. African-American tradespeople are often fired for a positive drug test while white tradespeople often suffer no consequences.

FORMAL NOTICE TO NNI OF A SERIOUS RACE DISCRIMINATION PROBLEM

123. In January 2013, plaintiffs delivered a letter to NNI Vice President Steve Napiecek, stating that they were bringing suit for “racial harassment/hostile work environment, disparate treatment and retaliation.” They named “Jeff Riley, Wayne Jackson, Superintendent Talley, Superintendent Joanne, Wade Lynn, Tommy Jaffeaux, Tom Castle, Steve Sheg, Tom Hines, Kevin Angle and Steve Napiecek” as being involved in the discrimination, or having knowledge of it.

124. This lawsuit was filed on September 30, 2014. It provided detailed descriptions of NNI’s racist harassment and disparate treatment of the original eight plaintiffs.

125. Plaintiffs are unaware of any response to the January 2013 letter to Vice President Napiecek, or the lawsuit filing, meant to address the significant racial problems at NNI.

126. No plaintiff was interviewed by Huntington Ingalls Human Resources. Plaintiffs

are unaware of any other victims being interviewed.

127. No plaintiff is aware of any training concerning racial harassment or race discrimination, that NNI has ever provided to its supervisors or production workers.

128. Plaintiffs are unaware of a single person who has ever been terminated, disciplined or even counseled by NNI for engaging in racial harassment or discrimination.

LACK OF AN NNI RESPONSE EXACERBATED THE RACIAL HARASSMENT

129. NNI's lack of concern about the issues raised in the letter to Vice President Napiecek, and this lawsuit, is evidenced by the absence of any response.

130. As a consequence, racist managers, supervisors and production workers have been emboldened. Rather than becoming less frequent, incidents of racial harassment have become more troubling.

131. Racism in employment is not a new problem. Addressing the problem requires commitment. But the methods for doing so are well understood. A successful response would have involved an investigation of the allegations, the replacement or retraining of the senior managers, identified above, whose words and deeds have communicated to supervisors and production workers that racial harassment and discrimination in employment are permissible. It would have required that NNI identify objective job related criteria for compensation and promotion, insure those criteria are embodied in promotion testing, and hold managers accountable for following the results of such testing. Subjective decision making--for example the tap on the shoulder from a supervisor, which NNI uses to promote workers to make up supervisor--has no valid role in evaluating production workers for compensation and promotion.

132. NNI would also have to create a functional human resources department at NNI,

trusted to receive and address complaints of racial harassment and discrimination, implement a credible progressive discipline policy to address racial harassment, and then apply the policy consistently.

133. It then would have to communicate its policies to NNI's production workers, and provide them, and their supervisors, with meaningful training addressing its racial harassment and discrimination problem.

134. In the absence of any response, events have spiraled out of control. As racists have become emboldened, more African-American tradespeople decided to join this lawsuit.

135. There is no more frightening symbol of racial violence than a noose. It conjures images of Klu Klux Klan mobs lynching African-Americans. Since the January 2013 letter to Vice President Napiecek, African-American NNI employees have (at least) twice been intimidated with nooses.

July 2014: Supervisor Threatens Subordinate with Noose

136. In July or August 2014 a white welder, Lowell Quesinberry, and Supervisor Donald Harwick were sitting together at a table on the shop floor in front of a unit. Plaintiff Chris Payton was looking for Harwick to ask him a question about the job he was working on.

137. As he approached, he noticed Harwick had a yellow rope in his hands, which he was manipulating. At the same time, Harwick was snickering, and Quesinberry was laughing.

138. Mr. Payton thought it was a noose, so he asked "ok, so what is that for?"

139. Harwick snickered "um, hm, hm, hm, you know what it's for," as he held it up so that Mr. Payton could see it more clearly. Harwick and Quesinberry continued to laugh and snicker.

140. Harwick was not shy about expressing his appreciation of slavery to his African-American subordinates. He referred to NNI plant closures as “plantation” shutdowns. On more than one occasion, Mr. Payton had heard Harwick say “ok y’all n*ggers are crazy,” and other statements containing the N word.

141. Harwick nearly started a fistfight, by referring to a group of African-American workers, which included Mr. Payton, as “n*ggers.” Sincere Booker, who works in Quality Control, and Artis LNU. Mr. Booker confronted Harwick. Mr. Payton had to separate them.

142. Artis complained about the racial slurs to Superintendent Mike Debord. Following his complaint, his Supervisor, Brian Penny, began assigning him to sweep floors, or clean metal, for ten hours straight--assignments he was not receiving prior to reporting the racial harassment.

143. Penny has made quite a few racially stereotyping statements himself, for example, he said to Mr. Payton “why do you people wear your pants like that.” Superintendent Doug Todd was present. He did not respond to the use of “you people,” he just said “yeah man, pull your pants up.”

144. Mr. Payton reported Harwick’s use of the noose to intimidate him to his coworker, Plaintiff [REDACTED] Joyner, but after seeing how Artis was treated for reporting Harwick, he decided not to report Harwick to Debord.

October 2014: Coworker Texts “N*gger Hatin’ Me Youtube Video

145. Levy Cluts is a coworker of Plaintiff Tourke Hooker, and Brandon Walker, who is African-American. Cluts frequently makes offensive racial jokes, such as “why are black people scared of chainsaws? Because when you start it up it says nigger, nigger, nigger.”

146. In October 2014, just after this suit was filed, he texted a Youtube video to Mr.

Walker, asking him what he thought of it. In it, a large all-white crowd of young couples is dancing to a country tune, with the following lyrics:

I like sugar, and I like tea
But I don't like n*ggers...no siree!
There's two known things that'll make me puke
And that's a hog eatin' slop, and a big, black spook!

You know it...cause I show it
Like a barn-yard rooster I crow it!
And the NAACP
Would sure like to get a-hold of n*gger-hatin' me!

Roses are red, and violet's are blue
And n*gger's are black, you know that's true
But they don't mind, cause what the heck!
You gotta be black to get a welfare check!

And I'm broke...no joke
I ain't got a nickel for a coke!
And I ain't black, you see
So Uncle Sam won't help poor n*gger-hatin' me.

Jig-A-Boo, jig-a-boo...where are you?
I's here in the woodpile...watchin' you
Jig-A-Boo, jig-a-boo...come out!
No! Cause I'm scared of the white man's a-way down South

You know it!...cause I show it.
Stick your black head out and I'll blow it!
And the NAACP
Can't keep you away from little old n*gger-hatin' me!

Mirror, mirror...on the wall
Who is the blackest of them all?
A man named King, and there ain't no doubt
That he's causin' lots of trouble with his baboon mouth.

Brewin'...he's a doin'
It's caused by the trouble he's a-brewin'
And the NAACP
Can't win if the white men stick with n*gger-hatin' me!

Hey! Mr. President! What do you say?
When are we whites gonna have our day?
The nigger's had there's such a long, long time
I'm white, and it's time that I had mine!

You know it...cause I show it!
Stick your black head out and I'll blow it!
And the NAACP
Can't win if the white man sticks with n*gger-hatin' me

147. As frightening as the lyrics are, what is arguably more shocking, is seeing hundreds of young white men and women dancing contentedly to the music, which was presumably part of the message Cluts intended.

December 1, 2014 Hangman's Noose Discovered by Plaintiffs

148. On December 1, 2014, plaintiffs saw a noose hanging from an air filter on one of their projects. They called some of the other workers over. Tim LNU, an African-American Steel America contractor, was very offended by it, and said, "this is the kind of m'fing stuff that I don't like and I don't play that." He took the noose down and ripped it up. The way it was knotted made it obvious that it was a noose.

149. An element of a racially hostile work environment on which plaintiffs bear the burden of proof, is that the conduct was physically threatening, humiliating, affected their psychological well-being or interfered with their ability to do their jobs.

150. The following photos provide information which cannot adequately be conveyed in print, namely, how vile the experience was for the plaintiffs of witnessing these events.

151. This is the noose that was left in plain view for the African-American plaintiffs to find:



152. The noose had no purpose, legitimate or otherwise, connected to the work in progress, thus the sole purpose was to intimidate, and frighten.

153. Like the noose, these photos were taken after this suit was filed (except for Plaintiff Keith Chisman's inkspot photo).

154. This is how plaintiffs white manager, Wayne Jackson, signs plaintiffs work, once he has inspected it:



155. Although his subordinates showed their disapproval, he continues:



156. Jackson joked that in this picture, “damn all you can see is the whites of [Plaintiff] Keith [Chisman's] eyes, and his teeth and his face looks like a **black inkspot**, hahahaha.”:

157. Jackson distributed this¹ targeted at African American employees, whom he perceives as lazy. The Simpson character Barney Gumble is depicted as a black inkspot, consistent with Jackson's perception of African-Americans:

¹ These were distributed together, also attached as Exhibit A.

Quality Assurance Condition Report (QAR)

Project Name: NNI
Client: NNI
Facility: NNI
Work Description: NNI
Audit Report: NNI
Work Instructions: NNI
Vendor: NNI
Sign-off: NNI

Inspection: NNI
Inspection Date: NNI
Inspection Time: NNI
Inspection Location: NNI
Inspection Method: NNI
Inspection Results: NNI
Inspection Comments: NNI
Inspection Sign-off: NNI

Approved By: NNI
Approved Date: NNI
Approved Time: NNI
Approved Location: NNI
Approved Method: NNI
Approved Results: NNI
Approved Comments: NNI
Approved Sign-off: NNI

Inspected By: NNI
Inspected Date: NNI
Inspected Time: NNI
Inspected Location: NNI
Inspected Method: NNI
Inspected Results: NNI
Inspected Comments: NNI
Inspected Sign-off: NNI

Inspection Status: NNI
Inspection Date: NNI
Inspection Time: NNI
Inspection Location: NNI
Inspection Method: NNI
Inspection Results: NNI
Inspection Comments: NNI
Inspection Sign-off: NNI

Inspection Status: NNI
Inspection Date: NNI
Inspection Time: NNI
Inspection Location: NNI
Inspection Method: NNI
Inspection Results: NNI
Inspection Comments: NNI
Inspection Sign-off: NNI



158. This is what plaintiffs still see every day in the NNI parking lot:



159. These are white employees sleeping at work. African-Americans who are caught sleeping are fired, immediately:



160. This is the white man who was not chased out of the segregated conference room:



161. There are numerous other incidents of racial harassment which have occurred since January 2013. These are examples:

162. Donald Harwick frequently uses the word n*gger in threatening harm to African-American, such as saying "I'm gonna kick that n*gger in the ass." He has been the subject of an

ethics hotline complaint, without result.

163. A white coworker, said to plaintiff Alfred Joyner, with a rigger sling in hand, “don’t worry, I’m not going to hang you today.”

164. James Nicks endorsed the Klu Klux Klan's right to recruit and hold meetings in Newport News.

165. Chris Carry often makes comments like, “what’s up my n*gger?” “look, they [referring to African-Americans] ghetto;” “what’s that shit you listening to;” “listen to the music they [African-Americans] listen to.”

166. Mike LNU said to Ted LNU, “I’m gonna slap that motherfucking n*gger on the side of his head.”

167. Jay LNU, a white NNI leadman/make-up supervisor exclaimed, “ooh, here comes the rifferaff, here comes the rifferaff; there goes the property value over here now.” Plaintiff Harris objected, asking, “that’s not a racial slur you’re calling me, is it?”

168. Plaintiff Marshall hears whites using the terms “n*gger” and “ghetto” on a regular basis out in the open, in areas where supervisors are present.

169. Daily bathroom graffiti: “n*ggers go home,” “No N*ggers In-house, “I hate n*ggers,” “n*ggers go back to Africa,” “white power, black power sucks,” “fuck you n*ggers,” and “hate n*ggers.”

170. The following individual allegations contain numerous additional examples of odious racial harassment, which has occurred since January 2013, and in many cases, since this lawsuit was filed.

II. Allegations of Named Plaintiffs

██████████ CRAWFORD

Race and Gender Based Hostile Work Environment

171. ██████████ Crawford is an African-American female. She was employed by NNI from August 2010 to January 2012. She is a first class welder with more than 26 years of welding experience.

172. At hire, around August 2010, Crawford was assigned to work in the Swiss Log. Her job duties included welding large metal pieces to be installed at refineries, nuclear plants, industrial facilities, and on ships. Additionally, she was assigned to teach welding skills to multiple entry level workers, a responsibility for which she received no additional compensation.

173. From her hire to the end of her employment at NNI, Crawford's supervisors and coworkers subjected her to a hostile work environment based on her race.

174. Jeff Riley, a Foreman, primarily supervised Crawford during her employment with NNI.

175. Riley mocked African-Americans, by engaging in stereotypical mannerisms, on a daily basis. For example, he frequently made racially derogatory remarks, such as stating that a Caucasian worker, "JJ," was a "poor excuse for a Caucasian man." He frequently told racially offensive jokes, such as comparing Caucasian women to black women.

176. Additionally, Riley routinely made racially tinged sexual comments to Crawford. He remarked, "I can't mess around with a sister, a sister is too loud and they don't know when to shut up." He spontaneously told Crawford about sexual experiences, talking about "hitting it," and having sex under the influence of cocaine. He remarked to Crawford, "I wouldn't hit that fat nasty thing now," referring to a female NNI employee. Riley's comments were overheard by

other Foremen, including Wayne Jackson and Tommy Jaffeux.

177. One example of the type of offensive racial remarks Riley made occurred one year into her employment with NNI, in or around November 9, 2011. Riley asked Crawford to build an area to train welders. When Riley saw the area Crawford had built he remarked, “that’s some African built shit.” Crawford was shocked and offended by his remark.

178. Approximately one week after Riley’s comment, Wayne Jackson, a superintendent, also made derogatory comments to Crawford. While Crawford was welding a submarine foundation, a process which requires skill and concentration, Jackson approached Crawford. He said, referring to Crawford’s trainee John, “you know I’m gonna have some fun with John when he gets over here. I’m gonna tell him ‘hey John, you’re learning how to weld from a bitch!’ and he’s going to be like Ms. Crawford is not a bitch.” Crawford became upset at Jackson’s comment and injured her shoulder while welding.

179. After her welding injury on November 9, 2011, Crawford was still in pain the next day. She reported the injury to Riley. Riley asked, “what are you gonna do?” adding, “if you go to the doctor they’re going to drug test you.” Crawford understood Riley’s remark to imply that she was taking illegal drugs. The racist belief that African-American employees were all on illegal drugs was widespread among NNI’s supervisors and upper management.

180. Crawford reported the offensive comments made by Jeff Riley and Wayne Jackson on or about November 9, to Steve Napiecek, the Vice President of NNI, within two weeks of the incidents. She provided the details of the comments made by Riley and Jackson, including that Riley had referred to her welding area as “African built shit,” Jackson had called her a “bitch,” and Riley had implied that she was taking drugs. Though the Vice President

stated, “don’t worry I’ll take care of it,” Crawford continued to be subjected to racial harassment. She was not made aware of any investigations into her complaints.

181. Crawford continued to hear Riley make offensive racial jokes on a daily basis. He continued to imitate and mock African-American mannerisms. He continued to make racially derogatory statements.

182. For instance, after being injured, Crawford was required to take a vision and hearing test to transition from her restricted work schedule to a regular work schedule. On the day of the vision and hearing test she forgot paperwork relevant to the testing at home. She asked Riley for a copy of the paperwork and Riley telephoned the test administrator. The female administrator responded, and Crawford overheard her say, “what am I gonna do with them.” Both Riley and the female on the phone started laughing. He turned to Crawford and repeated the racist comment, saying, “she said, what am I gonna do with THEM.”

183. Referring to African-Americans in the third person in the context of a derogatory remark, and implying “they” were outsiders, was common among supervisors at NNI.

184. Throughout the time Crawford was employed at NNI, Crawford saw employees with confederate flags on their cars (parked in NNI's lot), caps and shirts. At least one supervisor, Tommy Hines, had a confederate flag on his car. The racially offensive symbol was openly displayed in full view of NNI’s management and supervisors.

185. Crawford was subjected to inhumane treatment on account of her race and gender. Crawford complained to Riley on a daily basis about the Swiss Log’s lack of a female restroom. Riley did not make any arrangements for Crawford to use a bathroom located at the main building. Crawford was required to wait until after work to go to the bathroom or use the Men’s

restroom with her coworkers standing guard. The treatment was typical of NNI's policy and/or practice of subjecting African-American employees to harsher work conditions than Caucasian workers and ignoring their basic needs.

186. In 2011, Crawford had a kidney infection because she was not able to go to the bathroom regularly. She brought in a doctor's note to Riley indicating her condition. At that time, Riley said that she could drive to the Main Building to use the bathroom. Within two weeks, however, Tom Jaffeux, a supervisor, and Riley announced that Swiss Log workers were not allowed to go to the main building. Crawford continued to be subjected to inhumane work conditions.

187. On November 9, 2011, Plaintiff's shoulder was injured while welding. After attempting to dissuade Crawford from seeing a doctor, Riley handed Crawford a list of doctors preferred by NNI. He warned that if she missed work she would lose her job.

188. That same day, Crawford visited the NNI preferred physician and was prescribed sedatives and pain medications. She was placed on restricted work duties and not allowed to drive or operate machinery. Crawford returned to work groggy and in pain. She requested Riley's permission to go home. Unlike Caucasian workers who were able to take time off when injured, Crawford was not able to go home. Riley threatened that she would lose her job if she missed work. He assigned her to read paperwork. When Crawford would nod off because of the strong sedatives, Riley would kick her chair to wake her up.

189. Crawford continued to work on a restricted schedule throughout November and December 2011. Riley assigned Crawford to sit in the tool room and hand out tools. Robert Talley, the Superintendent, observed Crawford sitting and working. Within thirty minutes of

Talley seeing her, Wayne Jackson, the general foreman, came over and reassigned her to a different task. He said, “you take this paintbrush and sweep out the side of the building.” Plaintiff protested that she couldn’t bend over because of her injury. He responded, “take a barrel and sit on it or whatever.” Crawford felt humiliated. She said, “you wouldn’t have anybody else doing that,” Jackson responded that “I’m just trying to keep your job.”

Race and Sex Based Disparate Pay, Promotion, Overtime and Training

190. Plaintiff was hired at a wage rate considerably lower than the wage rate at which Caucasian employees with similar skills and experience were hired. The disparity between her rate of pay and the rate of pay of Caucasian employees with similar skills and experience widened over time as Caucasian workers were given raises and promoted. Ultimately, she was paid \$3/hour to \$6/hour less than Caucasian employees with similar skill and experience.

191. Plaintiff was hired at a wage rate of \$21/hour with 26 years of welding experience. Her rate of pay at hire was lower than the starting rate of Caucasian employees she trained. For example, “John” was hired at a rate of pay of \$22/hour with little experience working in the trades. Crawford was assigned to teach him welding skills.

192. By her third month of employment, Crawford was making \$24/hour, the rate she was paid until the end of her employment. Caucasian employees with less skill and experience made between \$3/hour to \$6/hour more than she did. For example, “Josh,” a welder with 6 to 7 years of experience, made approximately \$28/hour. “Evan,” an unskilled grinder, also made approximately \$27/hour.

193. Over the course of Crawford’s employment, she was given significant responsibility. She was asked to train four to five Caucasian welders to weld. She was praised by

her supervisor and the Vice President on her work product.

194. Despite positive reviews of her work, plaintiff was compensated at a considerably lower rate than Caucasian employees with similar skills and experience. In fact, at her prior job at Newport News Shipbuilding she was compensated at \$28.50/hour.

195. Crawford routinely asked Riley for raises. After her initial raise, from \$21/hour to \$24/hour, Riley ignored her requests.

196. Plaintiff Crawford was hired as a first class welder with 26 years of experience. Her skill and expertise at welding earned her the additional responsibility of training four to five entry level welders.

197. Crawford was not additionally compensated for her supervisory role.

198. She was not given the title of supervisor or step up supervisor.

199. In the beginning of 2011, Joanne, a Superintendent complimented Crawford's work. She said, "you'd make a good supervisor, have you ever thought about doing that." Riley responded, "if they make you a supervisor, I quit." His comment exemplified the entrenched bias towards African-Americans.

200. In 2011, a 23-year old employee with no prior experience in the trades, Daniel Cummings, was promoted to make-up supervisor. Cummings had started working as a welder in approximately November 2010. Within 4 to 6 months of working, Cummings was promoted above Crawford. Crawford had trained Cummings to weld.

201. Cummings position was not posted or advertised. Cummings was preselected for the position. Crawford found out about the position opening when Cummings was promoted into it.

202. Crawford would have applied to the position of step-up supervisor had she known about it.

203. Crawford did not see postings of job openings at the Swiss Log throughout the time she was employed. Crawford was qualified for a supervisory positions and would have applied for the position had she known about them.

Retaliation

204. In November 2011, Plaintiff complained to Vice President Steve Napiecek about the Jeff Riley and Wayne Jackson's racist statements. She also complained about NNI's failure to accommodate her injury. After her complaint, Jeff Riley, her supervisor began treating her even more harshly. Within two months of her complaint, Crawford was terminated. In addition to terminating her, NNI gave a negative reference to prospective employers, making it more difficult for her to obtain another job.

WILLIE KERSHAW

Racially Hostile Work Environment

205. Willie Kershaw is an African-American male. He was employed by NNI from April 2010 to December 2011. Kershaw was hired as a laborer. Within three months of hire, Kershaw acquired his welding certificate. His job duties as a laborer included, assisting welders, assisting fitters, grinding welds, cleaning welds, organizing work areas, painting, and cleaning. After attending welding school and getting additional training, Kershaw was assigned to a limited number of welding projects.

206. Initially Kershaw reported to Jeff Riley. Riley, Kershaw's other supervisors, and coworkers engaged in frequent racist remarks, racist offensive jokes and racist offensive conduct.

By way of example, supervisors and coworkers called Kershaw, among other racial epithets, “boy.”

207. Another example of the type of remarks Kershaw heard frequently was that all African-Americans “looked alike.”

208. For example, one coworker who was responsible for dropping gas off at NNI joked to Kershaw, “what’s a black guy on a bicycle? Someone who stole a Caucasian guy’s bicycle.” The same coworker exclaimed, “look at him, he’s turning Caucasian!” Kershaw was offended by the coworker’s jokes and asked him, “are you racist or something?”

209. Another example of the type of offensive comment he heard frequently was when Kershaw overheard a Caucasian coworker describing how his father often uses the N-word. He was defending his father. The coworker also admitted that when he has road rage he uses the N-word, and remarked that this was not offensive behavior.

210. Instead of prohibiting coworkers from making racially harassing remarks, Supervisor Jeff Riley encouraged the offensive behavior. For example, in or around October or November 2010, Kershaw’s coworker asked, “why does a black guy always hold his crotch like this?” Kershaw responded, “I don’t even want to know.” Riley spoke up and said, “Well tell me, I want to know!”

211. On another occasion, Riley commented to Kershaw that JJ, a Caucasian worker, was a poor excuse for a Caucasian man.

212. In addition to his offensive remarks, Jeff Riley mocked what he believed were stereotypical African-American mannerisms. On a daily basis, Riley walked around holding his crotch, walking with a slouch, trying to act like a rapper.

213. Whenever Riley made offensive remarks, Kershaw complained to Riley about the remarks. Riley, however, ignored Kershaw's complaints, and continued to make racist remarks and engage in racist behavior.

214. Kershaw was transferred to Jaffeux's supervision. Under Jaffeux's supervision, Kershaw was assigned to work in multiple locations, including the Swiss Log and outside the main building. His job duties included grinding welds and cleaning up after welders.

215. Within the first three weeks of working under Jaffeux, Kershaw was subjected to racially offensive remarks. Jaffeux was speaking with three NNI employees and exclaimed, "he has him a Caucasian bitch," indicating a newly hired employee, Cummings, then turning to Kershaw, saying, "and now he needs him a black bitch." Kershaw responded, "don't look at me." Jaffeux's statement was typical of the remarks he directed at Kershaw.

216. When Kershaw attempted to converse with his African-American coworkers, Jaffeux would get upset and tell Kershaw to get back to work. Caucasian employees were able to openly converse with one another.

217. Even though Kershaw was a certified welder, Jaffeux routinely assigned Kershaw to menial work. The job assignments given to him by Jaffeux made Kershaw believe that he had been *de facto* demoted.

218. In or around August 2011, after Jaffeux ignored his complaints about his work assignments, Kershaw complained to Richard Tally, Superintendent.

219. Following his complaint to Tally, Kershaw was transferred to work under Wayne Jackson. Wayne Jackson was the supervisor NNI used to fire African-American employees.

220. Jackson constantly supervised Kershaw. When Kershaw would use the bathroom,

Jackson would follow him into the restroom to check if Kershaw was in fact going to the bathroom. Jackson's treatment of Kershaw was typical of the harassing treatment African-Americans were subjected to by Jackson.

221. Around October 2011, Kershaw saw a Caucasian worker wearing a t-shirt with the caption "Redneck fishing." Pictured on the t-shirt was a Caucasian man holding a black man by his feet. The black man's head was underwater. He had goggles on and was holding a flashlight. Kershaw was deeply offended by the t-shirt. His coworkers, including Ron Valentine, had seen the employee wear the t-shirt on multiple occasions. Kershaw complained to a Human Resources representative about the t-shirt, however, he continued to see the employee wearing it.

222. Between April 2010 to January 2011, Kershaw was employed on the "pin jig" project. Workers on the "pin jig" project were overwhelmingly African-American. The "pin jig" project was also referred to by workers at NNI as "junk work" or "garbage work," the designations reflecting the inferior status of the work. The project was considered less desirable work because it was more physically demanding than other work and subjected workers to harsh weather conditions.

223. Throughout the time Kershaw was employed at NNI, his breaks were monitored. If he was seen speaking to an African-American employee he was told to get back to work. Caucasian workers at NNI were able to take breaks at their leisure, they were able to talk to one another, and were not under constant scrutiny.

224. The workers on the "pin jig" project were praised for their efficiency. After it was completed, NNI posted a sign indicating that the workers had finished the project early. In spite of this, the overwhelming majority of the African-American workers on the project were

terminated.

Racially Disparate Pay, Promotion, Overtime and Training

225. Kershaw was paid less than Caucasian workers with similar skill and training.

226. Kershaw was hired at a rate of \$13/hour. He had prior work experience as a laborer and was training to be a welder. Caucasian laborers with less experience were hired at a higher wage rate than Kershaw. For example, "John," also a laborer, was hired at a rate of \$22/hour.

227. At hiring, Kershaw was told that he would be given an evaluation at intervals of 30 days, over four months, and a raise would be given at each evaluation until his final wage rate was attained. Kershaw received his first evaluation and raise within thirty days. His wage rate was increased by \$1/hour. Kershaw's second evaluation was delayed by four months and was given in September 2011. Kershaw was given a raise of \$3/hour at his second evaluation. All subsequent evaluations and raises were omitted.

228. Because of the delay in Kershaw's second evaluation and the omission of his last two evaluations, the gap between his wage rate and the wage rate of Caucasian employees of similar skill and experience widened.

229. By July 2011, Kershaw had completed welding school, had obtained a welding certificate and had been assisting welders on the job. He was not given a raise or promotion for his increased skill.

230. After his initial year at NNI, Kershaw was no longer chosen for off-site work assignments. Off-site work paid a higher wage rate and had a daily allowance for expenses. Caucasian workers who had less experience than Kershaw were preferred over Kershaw for off-

site work. Kershaw had taken and passed a week-long valve tech training course required for off-site assignments at nuclear facilities. “Josh,” a Caucasian coworker, who had failed the training course exam, was preferred over Kershaw for out of town nuclear facility assignments. Kershaw’s treatment by NNI was typical of other African-Americans who were unlikely to be chosen for off-site assignments.

231. Kershaw routinely asked for training opportunities and job openings for a welder position. His requests were routinely denied.

232. Kershaw was told that he would be able to qualify for welding training at NNI if he obtained a welding certificate. After he obtained the certificate he was denied training through NNI. Other Caucasian laborers were given welding training through NNI without welding certificates. Cummings and “John,” two Caucasian workers, were assigned to be trained by [REDACTED] Crawford to weld. When Crawford asked to train Kershaw, Riley responded, “he has other things to do, you just need to shut your mouth.” NNI’s preference of Caucasian workers for placement in training programs over Kershaw was typical of its treatment of African-Americans. The additional requirements placed on Kershaw relative to Caucasian employees to obtain training through NNI were also typical of NNI’s treatment of African-Americans.

233. In less than a year after being hired as a laborer, Cummings became a step-up supervisor for Jaffeux, supervising fitters. Cummings’ position of step-up supervisor was not posted or advertised. NNI’s failure to post or advertise open positions and the pre-selection of Caucasian employees for openings was typical of NNI’s treatment of African-Americans.

234. Around August 2011, when Kershaw was working under Jaffeux, he was no longer getting challenging work relative to Caucasian coworkers, such as “John” and Cummings.

He complained to Jaffeux about the menial jobs he was being given relative to Caucasian workers. When Jaffeux was unresponsive to his complaint, he complained to Superintendent Richard Tally. NNI's management was unresponsive to his complaints and retaliated against him.

235. Kershaw was given menial work assignments by Jaffeux compared with his Caucasian coworkers with similar skills and work experience. He was no longer able to drive forklifts. Though he had a welding certificate, and had been welding under Riley's supervision, he was relegated to sweeping, cleaning and grinding welds.

Retaliation

236. Around August 2011, when Kershaw complained to Jaffeux and Tally about the quality of his work assignments he was transferred to Wayne Jackson's supervision. Jackson harshly scrutinized Kershaw's work. He followed Kershaw around while he worked. He followed Kershaw to the bathroom to see if he was actually using it. Caucasian workers under Jackson's supervision were not scrutinized in the manner that African-American employees were.

237. In November 2011, Kershaw complained to Human Resources about the racist tee shirt.

238. In or around December 2011, NNI terminated Kershaw. Wayne Jackson explained that he was fired for leaving slag on his weld. Slag is waste material separated from metal during the welding process. Kershaw indicated that he was not finished with the project, but Jackson ignored his explanation. Plaintiffs are unaware of any Caucasian worker or any worker who has not engaged in protected activity who has been fired for leaving slag on his weld.

239. Subsequently, Kershaw met with Richard Tally. Kershaw pleaded with Tally to give him his job back. Tally responded, “you think about that next time you’re in a disagreement with your supervisor.”

240. The reason given for Kershaw’s firing was pretextual. Kershaw was in fact fired for complaining about discrimination against African-Americans.

RON VALENTINE

Racially Hostile Work Environment

241. Ron Valentine is an African-American male. He is currently employed at NNI as a first class welder. He began working at NNI in November 2009. He has over 30 years of experience welding.

242. Tom Hines was Valentine’s primary supervisor when Valentine began working at NNI in November 2009. Hines harassed Valentine on a daily basis. He unjustifiably threatened Valentine’s job. When Valentine asked to be switched to an indoor assignment from the “pin jig” project because of frigid temperatures, Hines remarked, “I didn’t hire you to work in here.” Hines made demeaning remarks to African-American employees at morning meetings. When workers were given break time, Hines would run up to African-American employees to ask, “Why aren’t you working.”

243. Wayne Jackson supervised Valentine intermittently within the first three months of Valentine’s employment at NNI. Jackson harassed Valentine on a daily basis because of his race. Jackson scrutinized Valentine’s work. He timed Valentine’s bathroom breaks. If Valentine was in the bathroom for too long, he followed him inside and told him to get back to work. Jackson did not treat Valentine’s Caucasian coworkers in the same manner as he treated African-Americans.

244. Encouraged by Jackson's discriminatory treatment, Valentine's coworkers also engaged in racial harassment. Tom Castle made racial remarks on a daily basis to Valentine. For example, Castle remarked, "what's the difference between a dog in the street and a black man in the street? Skid marks in front of the dog." Castle's remarks were overheard by supervisors and other NNI employees, including Keith Chisholm, Don Pierce, and Foreman Jeff Riley. Jeff Riley laughed at Castle's racist statements.

245. In or around March 2010, Valentine complained to Thomas Jaffeux about Tom Castle's racial remarks. Castle continued to make racially offensive statements even after Valentine's complaint. Other employees, including Keith Chisholm and Don Pierce, also complained about Castle's racial comments. Castle was not prohibited from making racist remarks even after the employees' complaints and continued to make them until he left with an injury in 2011.

246. Jeff Riley acted in a racially offensive manner on a daily basis when he supervised Valentine. He mocked African-American mannerisms. He would make a fist and say, "what's up brother." He would grab his genitals as he walked. Valentine and other African-American workers were offended by Riley's conduct. African-American employees complained to Riley saying, "why are you acting like you're black." Foreman Wayne Jackson, and Tommy Hines, a make-up supervisor, laughed at Jeff Riley's behavior. Riley continued acting in a racially offensive manner even after employees' complaints.

247. Riley made derogatory statements to Valentine about Frantz Edouard's dreadlocks, saying, "why do black people wear dreads." When he was handing out job assignments to African-American workers and mistakenly switched assignments between African-American

workers, he would remark, “y’all look alike.” If he saw African-American workers talking to one another, he would say, “hey, hey, hey, I’m going to fire both a ya’ll.” Caucasian workers were not treated in the same manner by Riley.

248. In or around February or March 2011, Valentine was working outside the main building and had already received his work instructions from his supervisor, Jeff Riley. Wayne Jackson, knowing that Jeff Riley had already instructed Valentine, repeated to Valentine that he needed to wear his safety goggles. Valentine indicated to Jackson that he should speak with Riley. In response, Jackson exclaimed, “why are you acting like a gang member?” Shocked by Jackson’s racist remark, Valentine asked, “what did you just say to me?” Riley pulled Valentine away, stating that Valentine would be fired for questioning Jackson.

249. That same day, Valentine complained to Superintendent Richard Tally that Jackson was making offensive racial statements and had called him a gang member. Tally defended Jackson by saying, “Wayne was doing what he was told to do.” Jackson was not reprimanded for his statement.

250. Typical of the comments he heard daily, on another occasion, on or around February 2012, Valentine and two African-American employees were speaking with “Lewis,” a coworker, about a job assignment. Tally walked by and told “Lewis” to close the door. He exclaimed, “you have enough people here to keep you warm,” nodding to the African-American employees. Valentine understood the comment to refer to the southern myth that African-Americans draw heat.

251. On May 16, 2012, Valentine’s make-up supervisors, Steve Sheg and Wayne Jackson, attempted to unjustifiably terminate Valentine. Sheg was substituting as Valentine’s

supervisor. Fifteen minutes before the end of Valentine's shift, Sheg asked Valentine if he would be finished with his welding assignment by the end of the shift. Valentine responded that he would not. Subsequently, Jackson approached Valentine saying that NNI no longer had work for him. When Valentine contacted his supervisor Kevin Angle, Angle was confused. Angle contacted Joanne, a superintendent, and had Valentine transferred to Jaffeux's supervision. The make-up supervisors' impulsive attempt at firing Valentine and their disregard for the significant consequences of their actions exemplifies the callous disregard with which NNI treats its African-American workers.

252. Again, on or around December 2013, Valentine was told by Richard Tally, a superintendent, that he would be laid off in two days. One day before he was to be laid off, Valentine was told that the company had changed its mind.

253. On a daily basis, continuing to the present time, Valentine sees NNI employees wear confederate flags on their caps, shirts, and headbands. Tommy Hines, a make-up supervisor, displays a confederate flag on his front license plate and on his back window. These racially offensive symbols are clearly visible to NNI supervisors.

254. At least once a week until 2012, Valentine saw "Benny" wear a t-shirt with the caption "redneck fish finder." Pictured on the shirt was a Caucasian man on a boat holding a African-American man underwater by his feet. The black man had a flashlight and was looking for fish. Even after Kershaw had complained about it, Valentine saw "Benny" wear the t-shirt four or five more times. "Benny" was not reprimanded for wearing the racially offensive t-shirt at NNI.

255. Valentine complained on multiple occasions to his supervisors about the hostile

work environment at NNI. In spite of his complaints, NNI continued to treat its employees in a racially offensive manner.

256. Ron Valentine was employed on the “pin jig” project for over a year, beginning on or about December 2009. Approximately 90% of those employed on the “pin jig” project were African-American. Caucasian workers who were employed on the project either were new employees who were rotated out of the project within a week or were employees who had requested overtime hours. The “pin jig” project was less desirable work because it was dirtier and more physically demanding. The project was exposed to the outside temperatures and workers were required to work in very hot temperatures in the summer, freezing temperatures in the winter, and wet conditions when it was raining.

257. If Valentine or his African-American coworkers try to take a short break they are told to get back to work. For example, on February 3, 2012, at a safety meeting, Tommy Hines stated that Robert Tally had discovered two employees talking to one another. He warned that if employees were found talking to one another they would be fired. Valentine pointed out that Caucasian employees gathered and smoked all day long without reprimand. Hines did not respond to Valentine’s complaint. Even after Valentine’s complaint, Caucasian employees continued to gather and smoke without reprimand.

258. Caucasian employees are not always required to visit a doctor or take drug tests when they have accidents, while African-Americans are. On January 2012, Ricky Penrod fell down at the Swiss Log. He was not required to take a drug test or visit the doctor. In contrast, when Ron Valentine was injured, he was required to visit the doctor and take a drug test.

259. Supervisors took machinery Valentine was using; they would not treat Caucasians

in a similar manner. For example, on April 9, 2012, “Dan,” a supervisor, asked Valentine if he was using a sucking machine. Valentine responded that he was; Valentine had been using the same sucking machine for over three months. When Valentine was away from his work station, Dan had Willie Kershaw take Valentine’s sucking machine. Valentine was required to find an alternate ventilation source before he could continue his work. Protocol at NNI was to borrow another workers’ equipment only if the worker indicated that he was not using the machine.

260. On September 30, 2014, after Plaintiff brought a lawsuit against NNI for racial harassment and discrimination, NNI continued to subject Plaintiff to the same types of treatment about which he had complained. He continued to see workers openly expressing their racist sentiments, circulating Johnny Rebel’s “nigger hatin’ me” video and wearing confederate flag t-shirts. He continued to see supervisors parking their cars emblazoned with the confederate flag on NNI’s premises. He heard that workers continued to feel comfortable expressing their racial hatred, for example, by hanging a noose on NNI’s premises.

Racially Disparate Pay, Promotion, Overtime and Training

261. Ron Valentine was offered \$18/hour at hiring. He was able to negotiate his salary to \$22/hour. Valentine was hired at a considerably lower wage rate than Caucasian employees of similar skill and experience. He had over 30 years of experience as a welder and was paid at the same rate as Caucasian laborers such as “John” who had no experience working in the trades at hire. A Caucasian welder with approximately 20 years of experience at NNI, “Josh,” was hired at a wage rate of \$28/hour.

262. After hire, Valentine was told that he would receive evaluations every month for four months and would be given raises at each evaluation to reach his final wage rate. In spite of

his excellent work, Valentine did not receive any raises in his first four months of work.

263. Valentine received smaller and less frequent raises than his Caucasian coworkers. Valentine received yearly raises of \$0.50/hour to \$1.00/hour to reach his current wage rate of \$25.50/hour. Valentine continues to make considerably less than Caucasian employees with similar skill and experience even after working for approximately five years at NNI.

264. When the pin jig project was underway, Valentine and his coworkers were able to obtain overtime opportunities on that project but were passed over for others. Caucasian employees, in contrast, were able to obtain overtime work on the “pin jig” project and given preference for overtime work on other projects at NNI.

265. After the pin jig project was completed, in or around February 2011, Caucasian employees are given preference over African-American employees in overtime opportunities.

266. Every eleven months of work, Valentine is required to sit out one month because he is a “temporary” employee. Caucasian employees who were hired on a contract or “temporary” basis are required to sit out less time than Valentine.

267. Ron Valentine is among the most experienced welders at NNI. He has not been given any promotion opportunities or training opportunities since he was hired.

268. Valentine would have applied for promotion opportunities had he been made aware of job openings. NNI routinely fails to post or advertise job openings for permanent positions. NNI preselects employees to promote to permanent positions, almost always Caucasians.

269. Over the past five years that Valentine has been working for NNI, he has not seen any African-American employee promoted into a higher position than the position at which the

employee was hired. Caucasian employees with less skill and experience than Ron Valentine and other African-American employees are routinely selected for promotion by NNI.

270. For example, Daniel Cummings, a Caucasian employee, was hired by NNI in 2010. He had been working at Burger King prior to coming to NNI. He had no prior experience in the trades. He began as a laborer at NNI. Within two years, he was promoted to a step-up supervisor position where he supervised African-American employees with greater skill and experience. The opening for a step-up supervisor was not advertised or posted.

271. "Penny," a Caucasian employee, was hired with 6 to 8 years of experience as a structural welder. She was promoted to night shift supervisor. The opening was not advertised or posted.

272. Jaffeux's son was hired by NNI in 2011. He had no experience in the trades. Within two years he became a welding inspector. The opening was not advertised or posted.

273. Ron Valentine has not been chosen for training opportunities likely to increase his odds of promotion. Supervisors routinely select Caucasian employees for training opportunities leading to promotion. Cummings was selected for multiple training opportunities at NNI that resulted in his promotion to step up supervisor.

274. Jaffeux's son was selected for multiple training opportunities at NNI that resulted in his promotion to welding inspector.

Retaliation

275. Soon after bringing a lawsuit against NNI in September 30, 2014, Plaintiff's supervisor, Eric Tucker, began withholding overtime hours from Plaintiff Valentine.

276. In November of 2014, after enduring weeks of no overtime work, Plaintiff

complained to Scott Jones.

277. Nothing changed after Plaintiff's complaint and Plaintiff continued to receive no overtime work.

278. In December of 2014, after more than a month without overtime work, Plaintiff complained again to Scott Jones.

279. Following Plaintiff's second complaint, Plaintiff's work conditions further deteriorated. Eric Tucker reduced Plaintiff's normal work day from 10 hours to eight hours.

280. Continuing into the present, Plaintiff receives eight hours of work on a daily basis, while his co-workers receive 10 hours of work and overtime.

MARK BARNETT

Racially Hostile Work Environment

281. Mark Barnett is an African American male. He was employed at NNI as a first class welder from November 2009 to February 2011. Barnett had over 20 years of work experience and was among the most experienced welders at NNI.

282. Barnett was subjected to a racially hostile work environment by his supervisors and coworkers.

283. Tom Hines harassed Barnett on a daily basis. He constantly threatened Barnett's job. Barnett was harassed if he took a break during work. Even when Barnett was permitted to take a break, Hines would approach him and ask, "why aren't you working?" He disparaged the work of African-American welders. On one occasion, Hines pulled Ron Valentine and Barnett aside and said, "you guys are good welders, and I have no problem with your work, but some of these other guys want to follow you but they are not capable of doing that type of work." It was

clear to Barnett that Hines was finding fault with the work of African-American coworkers. Barnett's Caucasian coworkers were not treated in the same manner by Hines.

284. Jeff Riley subjected Barnett to racial harassment on a daily basis. Riley would make racially offensive jokes multiple times per week. Riley regularly imitated African-American employees and mocked their mannerisms. He frequently referred to Barnett, and his African-American coworkers as "you people" or "y'all." For example, Riley would ask Barnett questions like, "why are y'all people always lazy after you eat," "why do you people dress like that," and "why do you people drink." If an African-American worker was late to a meeting, Riley would say, "why all black people can't ever be on time, why're y'all always late."

285. In the mornings and at meetings, Riley regularly made derogatory remarks about Frantz Edouard, Barnett's coworker, in Barnett's presence. He would ask Edouard, "what is that you got on your head, that kinky long dready stuff?" Riley would also demean Edouard's Haitian heritage, saying, "Haitian, we gotta watch out for yall, them Haitian people." If Edouard was late to a meeting, he would say, "ah, look at this Haitian! Here he come, here he is? Oh you been drinking that wine?"

286. Riley also made derogatory sexual remarks about African-American women in Barnett's presence. When "Nicole," a young African-American female, would walk by he would say, "oh look what she got on, she showing it eh, mmm." He would comment about her body and her clothes. Riley did not treat Caucasian women in the same manner.

287. Barnett complained to Riley about his racially offensive remarks. He said, "you need to watch your mouth, some of that stuff you say." Riley responded dismissively. Barnett reiterated, "some of the stuff you say could be directed at me too, you do know that. That type of

stuff is offensive to people.” Riley continued to treat African-Americans in a derogatory manner and continued to make derogatory remarks about African-Americans (including Barnett), in Barnett's presence.

288. Wayne Jackson subjected Barnett and his African-American coworkers’ work to greater scrutiny than Caucasian workers. He timed Barnett and his African-American coworkers’ bathroom breaks. He closely monitored Barnett and his African-American coworkers’ movements, routinely asking them where they were going.

289. In or around October 2010, Barnett complained to Kevin Angle about Jackson’s treatment. Angle responded, “I’m glad you told me.” Even after Barnett’s complaint, Jackson’s offensive treatment of African-American employees continued.

290. Caucasian employees at NNI wore confederate flag doo-rags, and affixed stickers of the confederate flag to their toolboxes. The offensive symbols were conspicuously displayed in open view of supervisors.

291. For approximately one year from on or about December 2009, Barnett was assigned to the “pin jig” project. Workers assigned to the “pin jig” project were not able to get overtime work inside the main building or Swiss Log. Conversely, Caucasian workers assigned work in the main building and Swiss Log were able to obtain overtime work on the “pin jig” project. Approximately, 85% of the workers assigned to work in the main building were Caucasian. The main building was a preferable location to work because it was indoors and had a coffee room.

292. Sometime around the early part of 2011, Barnett learned that the main building had a coffee room. Prior to work, around 6 A.M., he and his African-American coworkers on the

“pin jig” project began getting coffee from the coffee room. Within days of Barnett’s using the coffee room, the coffee pot in the main building was moved. African-American workers were told that they could not have coffee in the morning. Caucasian employees continued to get coffee from the main building.

293. Throughout Barnett’s employment at NNI, he was frequently assigned arc welding work. Arc welding is the process of fusing two metals together with heat. The process is dangerous because it produces carbon monoxide as a by-product. African-American welders were required to do much more arc welding work than Caucasians. On one occasion, Riley remarked to Barnett, “Tommy Hines told me you’re the arc man.” Barnett responded, “No, I’m a welder.”

294. Barnett complained to Riley that he was routinely assigned to arc welding work. Even after Barnett’s complaint, African-American workers were overwhelmingly used for arc welding work.

295. Throughout Barnett’s employment at NNI, Caucasian workers were allowed to take lengthy breaks. They were allowed to sit in groups and talk. African-American workers were reprimanded if they took breaks. They were not allowed to talk to one another or sit in groups.

296. After the “pin jig” project ended, Barnett and his African-American coworkers were told that NNI had no work for them. Whites, with the exception of a few who were disliked, continued to have employment at NNI. Barnett was terminated because of his race, African-American.

Racially Disparate Pay, Promotion, Overtime and Training

297. Barnett had over 20 years of welding experience when he was hired by NNI. He had graduated from high school and attended welding school. Barnett was offered \$18/hour at hire. He was able to negotiate the rate to \$22/hour.

298. Barnett was hired at a starting rate equal to or less than the starting rate of Caucasian welders with less skill and experience. For example, "John" a Caucasian welder, was hired at a starting rate of \$22/hour with no prior experience in welding.

299. After hire, Barnett was told that he would receive evaluations every month for four months and raises at each evaluation to reach his final wage rate. Despite receiving positive evaluations, Barnett received no raises over the first four months of his employment.

300. In fact, Barnett received only one raise of \$1.50 over the entire time he was at NNI. Caucasian workers with less skill and experience made between \$3/hour to \$5/hour more than Barnett.

301. Every eleven months of work, Barnett was required to sit out one month because he was a contract employee. Caucasian employees who were hired on a contract basis were required to sit out less time than Barnett.

Racially Disparate Pay, Promotion, Overtime and Training

302. Barnett was among the most experienced welders at NNI. He was not given any promotion or training opportunities while at NNI.

303. NNI routinely failed to post or advertise openings for permanent positions. Had he been aware of a job opening for a permanent position at NNI, Barnett would have applied to the position. NNI preselects Caucasian employees to promote to permanent positions.

304. For example, Daniel Cummings began working at NNI in 2009 with no

experience in the trades. Within six months of being hired, he was working as a step-up supervisor. Within two years he was a permanent employee at NNI. The step-up supervisor position and the permanent employee position were not advertised.

305. NNI failed to select Barnett for training opportunities available to Caucasians.

FRANTZ EDOUARD

Racially Hostile Work Environment

306. Frantz Edouard is an African-American male. He was employed by NNI as a structural welder from July 2010 to January 2011. At the time of hire, Edouard had approximately 7 years of experience as a welder.

307. Edouard was subjected to a racially hostile work environment by his supervisors and coworkers.

308. Jeff Riley primarily supervised Edouard while he was employed at NNI. Riley frequently directed racially offensive remarks at Edouard. He made derogatory comments about Edouard's hair and his Haitian heritage, and mocked African-American behaviors. For example, Riley stated that Edouard's hair reminded him of riley worms. He said, "You need to cut them worms out of your head." Ron Valentine, Mark Barnett and other workers overheard Riley's offensive remarks about Edouard's hair. Riley also harassed Edouard about his Haitian heritage. He would remark, "that's some Haiti shit!" When Edouard was late for a meeting, Riley commented to everyone at the meeting, "ah, look at this Haitian! Here he come, here he is. Oh you been drinking that wine." Riley's racist remarks were made in the presence of supervisors and employees, including but not limited to Wayne Jackson, a superintendent, Ron Valentine, a coworker, Mark Barnett, a coworker, Keith Chisholm, a coworker, and Willie Kershaw, a

coworker.

309. Riley also mocked African-American mannerisms. He walked with a swagger, grabbing his crotch. He would say to Edouard and his coworkers, “why y’all think you’re thugs.” Edouard was offended by Riley’s statements and conduct.

310. Edouard was assigned to work at the Swiss Log. Tom Jaffeux supervised Edouard at the Swiss Log. Jaffeux also subjected Edouard to racist behavior. For example, Jaffeux would greet Edouard by raising a fist and saying “hey brother.” Edouard was offended by Jaffeux’s conduct.

311. In or around December 2010, Edouard went to work over the weekend. He was assigned to work inside the main building to weld small parts. Wayne Jackson was also working that day. He saw Edouard and began following him. Jackson paced back and forth around Edouard’s work station. When Edouard left his work station to see if welders outside the main building needed help, Wayne Jackson followed him. Unexpectedly, Jackson began yelling at Edouard, asking Edouard why he wasn’t working. Before Edouard could say anything, Jackson ordered Edouard to go home.

312. Edouard complained to Riley about Wayne Jackson’s strange behavior and that he was unreasonably sent home. Riley responded that Edouard should “let it go.” Jackson suffered no consequences for harassing Edouard and sending him home with no justification.

313. Edouard was offended because NNI employees openly wore confederate flags on their caps, shirts, and cars.

314. When Edouard was hired he was assigned to work outside the main building on the “pin jig” project. African-American workers constituted 90% of the workforce assigned to

work on the “pin jig” project. Workers on the “pin jig” were required to work through rain, sleet, and snow. Of his 15 coworkers at the “pin jig,” Edouard recalls only two Caucasian workers. The two Caucasian workers were disfavored by management and assigned to the “pin jig” because of their association with African-American employees. For instance, Jeff Riley referred to “JJ,” a Caucasian employee stationed on the “pin jig,” as a poor excuse for a Caucasian man. Other Caucasian workers were only temporarily stationed at the “pin jig” and were rotated out within a week.

315. At 6 A.M., it was common for Caucasian employees to gather at the main building to get coffee. When Edouard and his African-American coworkers attempted to get coffee at 6 A.M. they were reprimanded. Riley, their supervisor, and Wayne Jackson, the general foreman, would say, “There are no breaks at the shipyard, get back to work, can’t be hanging out.” Caucasian employees openly conversed and drank their coffee without reprimand. Eventually, supervisors shifted the coffee pot to a trailer outside the main building, away from the Swiss Log. African-American workers were prohibited from getting coffee from the trailer. Caucasian workers continued to be able to get coffee.

316. Caucasian employees were also allowed to take smoke breaks, longer lunch breaks and breaks to talk to coworkers. While Edouard was at the Swiss Log, he routinely saw 8 to 10 Caucasian welders taking smoking breaks and coffee breaks while supervisors were present. Edouard and his African-American coworkers were reprimanded anytime they were seen taking breaks.

317. In January 2011, when the “pin jig” project ended, Edouard was told that there was no more work for him or his African-American coworkers at NNI. Edouard was terminated

because of his race, African-American.

Racially Disparate Pay, Promotion, Overtime and Training

318. Edouard was hired at a wage rate of \$18.00/hour. He had 7 years of welding experience, including four years of military training in welding and two years of welding school. He underwent two weeks of rigorous testing administered by NNI prior to being hired.

319. After being hired, Edouard was told that he would receive evaluations every month for four months and would be given raises at each evaluation to reach a maximum of \$27.50/hour.

320. Edouard was given a raise of \$1.50/hour at his first evaluation on or about September 2010. At his second evaluation, on or about October 2010, he was given a raise of \$2.00/hour.

321. Edouard was not given a raise at his third evaluation, on or about November 2010. Riley explained that this was because Edouard was getting coffee in the morning. Edouard asked Riley what he could do to ensure that he would get a raise at his next evaluation. Riley responded, “work even harder.” He was told this even though he was more productive than his Caucasian coworkers and took fewer breaks than his Caucasian coworkers.

322. At his fourth evaluation, on or about December 2010, Edouard was given a raise of \$.0.50/hour. His final rate of pay was \$22/hour.

323. Edouard’s rate of pay was between \$3/hour to \$4/hour less than “Josh’s,” a Caucasian coworker Edouard worked alongside. “Josh” regularly took breaks from work and was less productive than Edouard. Additionally, the quality of “Josh’s” work was poorer than Edouard’s.

324. Edouard was hired as a welder. He regularly asked Riley for further training opportunities. Caucasian employees were regularly offered training opportunities over African-American employees.

325. For example, Daniel Cummings was given numerous training opportunities at NNI. Edouard was not given similar opportunities. In fact, Edouard was asked to teach welding skills to Cummings. Cummings and other Caucasian employees were also trained by [REDACTED] Crawford to weld.

326. Edouard regularly asked Riley for promotion opportunities.

327. Caucasian employees were regularly given promotion opportunities not available to African-American employees. For example, in or around January 2011, Daniel Cummings, a laborer with less experience than Edouard, was promoted to make-up supervisor. Cummings position was not advertised prior to his promotion. Edouard did not know of the position opening prior to Cummings' promotion.

REGGIE HOLLIMAN

Racially Hostile Work Environment

328. Reggie Holliman is an African American male. He was employed as a first class fitter at NNI from February 2010 to September 2011. He has a two year degree in applied sciences and, at the time, had 7 to 8 years of experience as a fitter.

329. His job duties at NNI included reading blue prints, cutting metal, welding metal and fitting together large pieces of metal to build parts for ships, power plants, military facilities and industrial facilities.

330. Holliman was subjected to a racially hostile work environment throughout his

employment at NNI. Jaffeux directed racially offensive remarks at Holliman approximately three times a week. He would address Holliman and his African-American coworkers as “y’all people.” At morning safety meetings with fitters, Jaffeux would be friendly with Caucasian workers and disdainful of African-American workers. He would threaten Holliman and his African-American coworkers by saying, “I’m going to get rid of someone.” If African-American employees were smoking, he’d say, “y’all people gots to stop smoking,” ignoring the Caucasian employees smoking. Whenever Holliman and his African-American coworkers took a short break, Jaffeux would say, “y’all get back to work.” The disparate treatment was so obvious that Tom Castle, a Caucasian coworker, commented to Holliman about the supervisors’ treatment of African-Americans, saying “I don’t think the guys like ya’ll people.”

331. Other workers, encouraged by the supervisors’ derogatory comments and harsh treatment also made offensive racial jokes. For example, Castle also frequently made racially offensive remarks in the presence of Jaffeux. On multiple occasions, he joked, “Caucasian, black, Chinese, and a police car, who ran? Wasn’t the Caucasian because he followed rules, Chinese thinks first, Black man’s always running.” Workers in positions of authority, such as “Jerry,” a Caucasian lead fitter, would laugh at Castle’s joke. Castle’s jokes deeply offended Holliman.

332. Jeff Riley also supervised Holliman. He made racially offensive remarks to Holliman on a daily basis. He made derogatory comments about African-American women, he mocked African-American mannerisms, and used racial epithets. He walked in an exaggerated manner that reminded Holliman of a pimp stroll. He used exaggerated hand gestures. He addressed African-American employees by saying “what’s up my brothers,” but not Caucasian

employees. He remarked to Holliman, “yall not educated enough.” He would greet Holliman with, “what’s up my nig,” or “my n*gger.” He would say, “your women have the best fat asses,” recounting occasions when he had sex with African-American women.

333. Wayne Jackson, a superintendent, made racist remarks which offended Holliman. For example, he said to “Josh,” a Caucasian coworker of Holliman’s, “you’re not going to let a black woman out-weld you.”

334. Under Jaffeux’s supervision, Holliman was given menial work assignments. In spite of his years of experience as a fitter, he was asked to sweep the floor, take foundations across the street to be shipped, and drive a forklift. Caucasian fitters of similar or lesser skill were given job assignments suitable to their skill and experience.

335. At morning safety meetings, Holliman and his African-American coworkers were briefed after Caucasian workers. Caucasian workers were already stationed at their assigned areas when African-American workers were briefed. This guaranteed that the Caucasians received the best assignments.

336. During the day, Caucasian workers would sit around for one to three hours talking in groups while Holliman and his African-American coworkers worked. When Jaffeux saw Caucasian workers sitting around, he would walk past them without comment. If Holliman or his African-American coworkers took any breaks, Jaffeux would tell them to get back to work. Caucasian workers were able to take smoking breaks, but if Holliman or his African-American coworkers took smoking breaks their jobs were threatened.

337. Caucasian tradespeople, but not African-American tradespeople, were allowed to take coffee breaks. The coffee room was moved to an area where supervisors congregated so that

supervisors could specifically monitor workers who were taking coffee breaks.

Racially Disparate Pay, Promotion, Overtime and Training

338. Reggie Holliman was hired at a pay rate of \$18/hour. He had a high school diploma and two years of applied sciences training. Additionally, he had 6 to 7 years of work experience as a fitter.

339. Holliman was hired at a lower rate of pay than Caucasian workers with less work experience. For example, "John," a Caucasian worker was hired as a laborer for \$22/hour.

340. Holliman was promised at hire that his work would be evaluated over a four month period and he would be able to make up to \$24/hour. Every month he would receive an evaluation and a raise. After four months he would be at his final rate of pay.

341. Holliman's evaluations were delayed longer than Caucasian workers' evaluations and the raises given were less than those given to Caucasian workers of similar experience and skill.

342. Holliman received his first evaluation within thirty days of being hired. He was given a \$1/hour raise. His second evaluation was two to three weeks late. He received a \$1/hour raise after his second evaluation. His third evaluation was three months late. He received a raise of \$1/hour at his third evaluation. His fourth evaluation was given three months after his third evaluation. At his fourth evaluation, he received a raise of \$0.50. Holliman's final rate of pay was \$21.50/hour.

343. Holliman's final rate of pay was between \$3.50 to \$6.50 less than Caucasian workers of similar or lesser work experience and skill. This wage rate differential was typical of the differential between Caucasian workers and African-American workers. For example, Ricky

Penrod, a Caucasian fitter, who did not have a high school diploma made between \$25/hour - \$26/hour. "Josh," a Caucasian welder, with approximately 5 to 7 years of experience, made \$28/hour.

344. While he was working for Jaffeux, from June 2010 to May 2011, Holliman regularly requested overtime work. He was not given overtime work. Caucasian employees were overwhelmingly preferred over African-American employees for overtime work. For example, JJ and Ray Ray, two Caucasian workers, regularly received overtime work under Jaffeux.

345. Reggie Holliman was hired as a fitter. He regularly requested further training opportunities.

346. Caucasian tradespeople were regularly offered training opportunities over African-American employees.

347. For example, Daniel Cummings advanced in his career from a laborer to a first class fitter within two years, an unusually fast rate of promotion for the industry, with the help of training opportunities from NNI. Cummings was Holliman's coworker and received an overwhelming level of training support from NNI. No African-American, including Holliman, received an equivalent level of training support from NNI.

348. Reggie Holliman requested off-site job assignments, such as job assignments at nuclear plant shutdowns, and the biotech team. Off-site work paid a higher hourly wage and was accompanied by a daily allowance.

349. Caucasian workers were overwhelmingly preferred for off-site work over African-American workers.

350. Reggie Holliman regularly asked about promotion opportunities.

351. Caucasian employees were regularly given promotion opportunities not available to African-American employees.

352. NNI failed regularly to post and advertise promotion opportunities.

353. NNI preselected Caucasian employees for promotion opportunities when it did post or advertise those opportunities.

354. For example, over two years' time, Daniel Cummings was promoted from laborer, to fitter, to make-up supervisor. The promotion opportunities made available to Cummings were not advertised prior to his promotion.

Racially Disparate Discipline And Termination

355. Drug testing rules were disparately enforced against African-Americans. Caucasian employees were not always required to undergo urine analysis after work accidents, unlike African-American workers. Even if Caucasian employees had a positive urine test, they were not always fired. Also, Caucasian employees were still eligible for rehire even with a positive urine test.

356. Reggie Holliman was terminated in or around September 2011 after he crushed his hand on a steel plate and was required to take a urine test. His urine tested positive for marijuana. He explained to the Richard Tally, NNI superintendent, that the urine test was an aberration and that he had been going through a difficult time after his grandmother had passed away. He was fired by NNI and told that he was ineligible for rehire.

357. Unlike Holliman, "Lee," a Caucasian worker who crashed a company truck was not required to undergo urine testing. Another Caucasian employee, "Josh," tested positive for illegal drugs when he was sent off-site to work at a nuclear shutdown. NNI continued to employ

“Josh.” A third Caucasian employee, “Nate” had a positive urine test. He was rehired by NNI.

██████████ HOLLIMAN

Racially Hostile Work Environment

358. ██████████ Holliman is an African-American male. He was employed as a structural welder at NNI from November 2011 to April 2012. He had 10 years of experience as a welder prior to being hired.

359. Tom Hines was Holliman’s initial make-up supervisor and subjected Holliman to racial harassment. Hines spoke condescendingly to Holliman on a daily basis. When Holliman received his first raise, Hines remarked, “you didn’t deserve your raise,” even though it was Kevin Angle who was responsible for evaluating Holliman and giving him raises. When Holliman was not given a raise with his second evaluation, he was told by Hines, “you don’t deserve any more money, if you’re going to get a raise, then you need to do more and better work.” Hines was speaking objectively in either case, he was expressing his bias against African-Americans.

360. Steve Sheg, who was initially Holliman’s coworker, became his make-up supervisor around January 2012. He harassed Holliman on a daily basis. For example, when talking about Holliman to others, Sheg would say, “bring his black ass here.” He used the N-word at least three times to address Holliman. He would remark, “you better hurry up and do that or I’ll stick this pipe up your ass.” He would tell Holliman to “suck my dick.” He called Holliman a “faggot.” He did not believe Holliman was homosexual, and there is no reason to believe Sheg had a sexual interest in Holliman. He made these statements to express his contempt for Holliman because of his race.

361. When Holliman bought a 2012 Camero, around March 2012, Sheg commented, “I don’t know how you’re going to afford that car, because I’m going to get you out of here when I become supervisor.” Another Caucasian coworker exclaimed, “what are you doing with a car like that? How did you get a car like that.”

362. Around March 2012, Sheg began moving Holliman to different work locations in the Main Building. Holliman was moved to 4 or 5 different work stations. He was unable to become proficient in the work assigned to him at any specific station because he was moved so frequently. His work was scrutinized by Sheg. Sheg would tell Holliman to hurry his work and then criticize him for being done too early. Sheg would time Holliman’s bathroom breaks. On one occasion, Sheg came into the bathroom while Holliman was using it and told him to come out of the bathroom and get back to work.

363. Eventually, Sheg moved Holliman to Wayne Jackson’s supervision. Wayne Jackson was Holliman’s make-up supervisor from approximately March 2012 to April 2012. Jackson harassed Holliman on a daily basis.

364. In or around March 2012, NNI’s clients were inspecting Holliman’s work. Because he could not weld while others were at his work station, Holliman went to assist a coworker. Jackson saw Holliman and remarked, “you’re an embarrassment to the company.” He said, “Ya’ll just sitting here talking and yall aren’t supposed to be talking.” When Holliman pointed out that other Caucasian workers were also talking, and complained, “why aren’t you saying anything to them?” Jackson walked away.

365. On another occasion, when Holliman didn’t come to work on a Saturday, which was optional, Jackson remarked to another employee, “I’m gonna get on [REDACTED]’s ass for not

showing up on Saturday.”

366. Around April 2012, Holliman complained to Steve Sheg about Steve Sheg’s harassing conduct. Holliman asked Sheg about whether he was trying to fire him. Sheg denied trying to fire Holliman.

367. Subsequently, around April 2012, when Sheg’s harassment continued, Holliman complained to Richard Tally, the NNI superintendent, about Sheg’s offensive conduct. He complained that Sheg routinely made racially offensive remarks. Within a day or two, Tally arranged a meeting between Sheg and Holliman. Sheg denied making racially offensive remarks. Tally stated, “Me and Steve, we’ve known each other for a long time and he was with me for a long time, so I’m going to take his side on this.”

368. Employees at NNI openly displayed confederate flags on their lockers and toolboxes, which Holliman saw, and found offensive. They wore t-shirts and scarves depicting the confederate flag. Tom Hines, a supervisor, displayed the confederate flag on his truck which he parked in NNI’s lot.

369. Holliman requested a transfer to a Welding Inspection position, but was denied. All Welding Inspectors at NNI were Caucasian. The job duties of Welding Inspectors included inspecting welds and evaluating welds. Work conditions of Welding Inspectors were more desirable than the work conditions of Welders because they were less physically burdensome and cleaner.

370. Holliman requested training in Crane Operation but was denied. The overwhelming majority of Holliman’s Caucasian coworkers were certified by NNI to operate cranes, but the overwhelming majority of Holliman’s African-American coworkers were not.

Cranes are essential to welding. Without a crane, workers must move heavy equipment by hand and are more likely to be injured. Additionally, workers without cranes are more likely to be reprimanded for delays in their work because they must wait for crane operators when they cannot move equipment by hand.

371. Throughout the time he was employed at NNI, Caucasian workers were allowed to take frequent work breaks. They were able to talk to one another while working and were able to congregate to talk in groups. In contrast, if Holliman or his African-American coworkers took short breaks they were told to get back to work. Holliman and his African-American coworkers were not allowed to talk to one another.

372. Additionally, throughout the time Holliman was working, Caucasian workers were able to get coffee in the morning and eat while working. Holliman and his African-American coworkers were not permitted to have coffee in the mornings and were not allowed to eat except at lunch.

Racially Disparate Pay, Promotion, Overtime and Training

373. Holliman was paid less than Caucasian workers of similar skill and experience. Holliman was hired as a structural welder by NNI at \$20/hour. At the time of hire he had ten years of welding experience. Caucasian employees of similar or lesser skill and experience were hired at a higher wage rate than Holliman. For example, "John," a Caucasian employee with little to no background in welding, was hired at \$22/hour.

374. When Holliman was hired, he was told that his wage rate would be increased pending an evaluation period. He would be given four evaluations at intervals of thirty days with raises at every evaluation to reach his final pay rate. His estimated final pay rate was \$27/hour to

\$28/hour.

375. Holliman's evaluations were delayed or omitted. Holliman's first evaluation was delayed by 3 to 4 months. He was given a raise of \$3 at his first evaluation. His second evaluation was also delayed by 3 to 4 months. He was given a raise of \$1 at his second evaluation. He never received his third and fourth evaluations. Holliman's final wage rate was \$24/hour.

376. Caucasian employees with similar skill and experience as Holliman had been making \$3/hour to \$4/hour more than Holliman after their first four months of employment at NNI.

377. Holliman regularly requested promotion and transfer opportunities. Promotion and transfer opportunities were regularly available to Caucasian employees but unavailable to African-American employees.

378. Even when promotion and transfer opportunities were ostensibly made available to African-American employees, additional unwritten requirements were enforced against African-Americans but not against Caucasian employees.

379. For example, in or around March 2011, Holliman saw an advertised position for a welding inspector. He asked Kevin Angle, his supervisor, to be transferred to the position. Holliman explained to Angle that he was taking classes to be certified as a Welding Inspector. Angle admitted that openings existed for the welding inspector position, however, Angle stated that Holliman needed certification to be transferred.

380. The certification requirement was not mentioned in the job's advertisement. Additionally, Holliman knew that Caucasian workers had been transferred to the position without

certification. Specifically, an approximately 50 year old worker with no prior experience in welding or welding inspection was transferred to the position from an administrative position while Holliman was at NNI.

Retaliation and Constructive Discharge

381. In or around April 2012, Holliman complained to Richard Tally, the NNI superintendent, about the racial harassment he was subjected to by Steve Sheg. Tally stated, without an adequate investigation, that he didn't believe Holliman. After his complaint, Holliman's treatment at work worsened. He was harassed on a daily basis. His work was closely scrutinized. He was told by his coworkers that NNI was trying to fire him. Holliman's working conditions had become intolerable and due to the increased harassment Plaintiff was forced to resign. In or around April 2012, Holliman was constructively discharged.

DAVID SWAIN

Racially Hostile Work Environment

382. David Swain is an African American male. He was hired as a welder in May 2012. He had 13 years experience and been a First Class Welder working in shipyards in the Tidewater area. Swain has been subjected to a racially hostile work environment throughout his employment at NNI.

383. Swain has witnessed his Caucasian supervisors treat African-Americans in demeaning ways. For example, he witnessed Ben Vogel, his make up supervisor, say "git down here," to Tim Bodie. Swain complained to his Foreman that VogelVogel was speaking to Bodie like a dog.

384. When Swain showed VogelVogel pictures of his children, Vogel said "I bet your

wife is fat too.” Vogel had previously told Swain that African-American men end up with the women that Caucasian men do not want, those who are fat or ugly.

385. Vogel frequently expresses his belief that there is no point in African-Americans applying for training or promotion at NNI because they are not going to get those opportunities. Swain hears similar comments from Josh Vanderberg and Christian Watson, Caucasian coworkers.

386. Wayne Jackson regularly uses “you people,” when addressing Swain and other African-Americans.

387. He frequently makes comments about his African-American subordinates, such as “he’s too stupid,” which he does not say about Caucasians.

388. Jackson accused one of his African-American subordinates, Troy, of looking like a gang member, which Swain found offensive.

389. Jackson has made some absurd accusations against Swain, which reflect his belief in the stereotype that African-Americans are lazy.

390. For example, Jackson accused Swain of sleeping while Swain was operating a band saw.

391. When Swain pointed out that it was impossible that he was sleeping, Jackson threatened him, that he would take him to the Foreman’s office “and I will win.”

392. Swain witnessed Jackson harass a diabetic African-American worker named Richard Bostic.

393. Bostic was required to take several breaks a day, in order to eat, to control his blood sugar.

394. Jackson hounded him mercilessly, although it was obvious then man was not slacking off.

395. Swain was extremely offended by this mistreatment.

396. Jackson does not treat Caucasians in this manner.

397. Foreman Kevin Angle has called Swain "Gilligan," a disparaging name which he does not use for Caucasian workers.

398. Swain and other African-American workers are harassed by their Foremen and supervisors, whenever they take even a momentary break from their work, or use the restroom. Caucasian workers are allowed to take breaks without being yelled at.

Racially Disparate Pay, Promotion, Overtime and Training

399. Swain was hired at \$23 per hour. He presently makes \$25 per hour.

400. A less qualified Caucasian welder, Josh Vanderberg, who has only about four years experience, is paid \$29 per hour.

401. Vogel, who is completely incompetent, and literally cannot weld, is paid at least \$1 an hour more than Swain.

402. Swain receives less overtime work than his Caucasian peers. Swain's Foreman assigns work that will run into the weekend to Caucasians but rarely to African-American, and only when there are no Caucasians available.

403. Caucasian tradespeople are regularly offered training and promotion opportunities over African-American employees.

404. Swain is presently only been given stick and flux welding, and grinding, to perform. He has been asking to be given tests, to qualify for more advanced welding, which he

has performed at prior employers, and has been trained for. He has complained to Kevin Angle, his Foreman, and to Scott Jones, Superintendent, that Caucasians are being allowed to take these tests, and that he is being denied the opportunity. He has told them this is racially discriminatory. Angle has said "I'll get to it when I get to it." Jones promised to talk to Angle, but that was two months ago, and nothing has changed.

405. Angle has said that he will not test Swain for other welding qualifications so long as he keeps asking to be tested. Angle does not deny Caucasian welders the testing needed for additional qualifications, or make similar statements about Caucasian welders.

406. Vogel, Swain's make up supervisor, was hired in September 2013, with no prior experience welding. Prior to working at NNI, Vogel had been in swimming pool cleaning and maintenance.

407. Vogel is incapable of passing a welding test without cheating, yet he is supervising Swain, who has been helping to train Vogel.

408. Mike Johns did the welding which allowed Vogel to pass his welding test.

409. Vogel cannot even tack weld competently. Swain has to clean up his tack welds, or re-weld them.

410. Vogel is not allowed to sign his welds because he is not qualified.

411. Clinton, who is Caucasian, was hired at the end of 2013. He had no prior welding experience.

412. He is already a Make Up Supervisor.

Retaliation and Constructive Discharge

413. After Plaintiff Swain filed a lawsuit against NNI on September 30, 2014,

Plaintiff's work environment deteriorated.

414. Plaintiff's racial harassment was ongoing after the September 30, 2014 lawsuit was filed.

415. Plaintiff brought his complaints of racial discrimination and hostile work environment to Kevin Angle and Scott Jones' attention on numerous occasions.

416. NNI refused to correct the hostile environment and discrimination; as a consequence, he was constructively discharged on February 9, 2015.

417. In his resignation letter, he stated:

I will be resigning from my position at NNI today. After years of complaining about the racist work environment at NNI, and seeing no change at NNI, I can only understand NNI's lack of responsiveness as a deliberate attempt to force me to resign. Since filing the lawsuit against NNI, my work conditions have deteriorated. I have been cut-off from the therapy I had been receiving through my employer for the emotional and psychological trauma of working in a racist environment. The specific concerns I had brought up in my lawsuit are still ongoing. Wayne Jackson continues to demean African-American workers, addressing them as, "you people," and harassing them to work without breaks. Workers still openly wear confederate flags t-shirts to work, and display the confederate flag on their cars in NNI's parking lot. The culture of racism at NNI continues to persist, with supervisors kicking out African-Americans from eating lunch in areas still open to whites, and with workers expressing their racial hatred by, for example, hanging a noose from an air-filter, writing "niggers are in my stool" in NNI's port-a-potty, and circulating Johnny Rebel's "nigger hatin' me" video.

418. Plaintiff Swain had continued to observe the same preferential treatment towards white workers he had complained about in the original Complaint. Swain states:

Even after my lawsuit against NNI, where I brought up these very concerns, Kevin Angle continued to assign my white coworkers, Ben Vogel and Josh Vanderbury, specialty job opportunities, while I was relegated to grinding work. When new work packages came in, and I asked for training on the packages, Kevin Angle, ignored my requests, but sat with my white coworkers, Ben Vogel and Josh Vanderbury, to give them hours of one-on-one instructions.

419. Though Plaintiff applied for multiple job opportunities after September 30, 2014, he was overlooked in preference for white employees with less experience. Plaintiff states:

There is no opportunity for African Americans to advance at NNI. I came to NNI with fourteen years of experience welding, with expertise in TIG, MIG, stick, pulse-arc, and Flux-Cored welding, hoping to contribute my skills to NNI, and progress in my career. Instead, Kevin Angle, my supervisor, and Scott Jones, NNI's Operations Manager, held me back and promoted other white workers with no prior welding experience ahead of me. White workers with less experience than I were placed in leadership rolls affiliated with management, while I was overlooked.

I have consistently asked Kevin Angle and Scott Jones for opportunities to become a supervisor on a regular basis, including after my lawsuit against NNI. Though my requests have been denied, Ben Vogel, my white coworker who was cleaning pools prior to coming NNI, has been assigned to supervise me. I have applied to multiple positions at NNI, including Quality Control and Quality Inspector in December of 2014 and January of 2015, and a full-time welding position in January of 2015. I have been passed over for these opportunities and white workers with less experience than I, such as Ben Vogel, who is now working in the Quality Control department, have received the opportunities.

420. Pushed out by NNI's lack of responsiveness to his complaints and the race-based treatment he continued to experience, Plaintiff was constructively discharged.

Steven Gordon

Racially Hostile Work Environment

421. Plaintiff Steven Gordon is an African-American male. He began working in July 2012 at NNI as a welder and continues to work at NNI. He had been welding over 30 years and carries qualifications in MIG, TIG, Flux-Cored and stick welding. He is nuclear certified and shipyard certified.

422. Primarily, Kevin Angle supervised Plaintiff Gordon over the course of his

employment. Wayne Jackson and Ruel Scott also supervised Plaintiff Gordon.

423. Throughout Plaintiff's time at NNI, supervisors frequently demeaned African-American workers and implied they were lazy and incompetent. Supervisor Ruel Scott regularly nitpicked Plaintiff Gordon and his African American coworkers' work over others' without regard to Plaintiff or his African-American coworkers' experience, proficiency or competence. Wayne Jackson embraced the moniker "General Jackson" and frequently directed racially offensive language at Plaintiff, including calling him a gang member.

424. Symbols of racial oppression were common at NNI. Even Tommy Hines, a supervisor, drove a vehicle displaying the Confederate flag.

425. When confronted by a noose hanging from an air-filter in or around December 1, 2014, Plaintiff Gordon realized the deep seated hatred towards African-Americans at NNI.

426. On a daily basis, while Plaintiff was working within Wayne Jackson's vicinity, Plaintiff observed Jackson engage in racially offensive conduct. Wayne Jackson called Plaintiff Gordon a gang member for having the welding signature, "black ice," which referred to the smooth nature of Plaintiff's welds and harassed Plaintiff to stop using the welding signature daily.

427. Jackson himself used the welding signature "General Jackson" on his welds, an obvious reference to enslavement of African-Americans. Other white workers were also able to use their own welding signatures, including inappropriate signatures which could have been interpreted to have sexual connotations such as "slick fifty," a lubricant, and "snake man."

428. In or around the end of 2012 or the beginning of 2013, Mr. Gordon complained to Kevin Angle, his supervisor, that he was being harassed by Wayne Jackson for using the welding

signature “black ice.” Angle responded, “how can he do that if he uses the welding signature General Jackson?”

429. When Kevin Angle permitted Mr. Gordon to continue using the signature, Jackson took it upon himself to have helpers in his crew remove Mr. Gordon's signatures from all of Mr. Gordon's welds.

430. The helpers also intruded into Plaintiff's personal space and removed the “black ice” ink signature from Plaintiff's locker. All workers are able to use their lockers as their own space to display personal information, and workers continue to display confederate flags without issue.

431. Subsequently, at a meeting with Scott Jones, Operations Manager, and Kevin Angle, Jackson made the ridiculous and racist accusation that Plaintiff, an upstanding worker, was a gang member and “black ice” was a gang name. The racial slur was a favorite of Jackson's and this was not the first time Jackson had made unfounded accusations that African-American workers were gang members, also calling Mr. Valentine a gang member.

432. In addition to making racially disparaging remarks, Jackson also approached African Americans with the racial stereotype that they were lazy and constantly hounded them to work. On a daily basis, Jackson threatened Plaintiff and his coworkers that their time would be docked if they were not “actively engaged in work,” ignoring white workers who were socializing and sitting around.

433. Even during hold points—points at which workers must discontinue work and wait for quality control inspection—Jackson would expect African-American workers to be “actively engaged.” For example, when Mr. Gordon was reading his bible waiting for quality control

inspectors to finish inspecting his work. Jackson asked Mike Johns, a supervisor, to write-up Gordon.

434. Jackson's belief that African-Americans were lazy was so strong that he felt justified in harassing even a diabetic African American worker, who needed to take breaks to eat, to avoid lapsing into a coma. Though Plaintiff Richard Bostic had received an accommodation from NNI to take breaks to eat, Jackson made every effort to ensure that Plaintiff Bostic did not take those breaks. BosticBosticBostic

435. Bostic If Jackson saw Plaintiff Bostic on break, he would threaten his job, asking him "why aren't you working," and would tell him to get back to work. Suffering under Jackson's constant harassment, Plaintiff Bostic confided to Plaintiff Gordon, "I'm getting tired of this."

436.

437. After an occasion where Plaintiff Bostic became disoriented and nearly passed out while working because he could not take a break to eat Plaintiff Bostic resigned, acknowledging that Jackson had little regard for his life.

438. In addition to constantly hounding African Americans to work because of his belief that African-Americans were lazy, Jackson also enjoyed gratuitously humiliating African-American workers. While Marcus (LNU), an African-American laborer, was sitting on a bucket and working, for example, Jackson impulsively kicked the bucket from underneath Marcus for no reason and ordered him to stand and work.

439. Jackson also enjoyed humiliating Keith Chisman, a highly-skilled African American welder and fitter, by giving him menial tasks. If there was a job that required a worker to be on his knees, it would be given to Plaintiff Chisman; if there was a cleaning job or painting job, it

would be given to Chisman.

440. Wayne Jackson had a reputation for firing African Americans and holding them to higher standards than white employees. Keith Chisman, for example, was fired for barely nicking a ladder with a forklift. In comparison, when a white worker ran into a wall with a forklift and knocked the wall down, the worker suffered no repercussions.

441. On another occasion, Jackson falsely accused Astro Bryn, an African-American make-up supervisor, of sleeping on the job. Though Bryn had not been sleeping, Jackson docked his time. In comparison, Jackson regularly ignores white workers who are asleep on the job, such as Ricky Penrod who continues to enjoy daily naps at work.

442. On yet another occasion, a white worker on Jackson's crew dropped a 6000 pound plate and nothing was said. Instead of following the usual protocol of discussing the accident at the morning safety meeting, the incident was covered up. When a worker asked Jackson about the accident, Jackson responded with the absurd excuse that his crew had been loading testing equipment.

443. In addition to Jackson, Ruel Scott also supervised Gordon. Like Jackson, Scott approached Plaintiff Gordon and his African American coworkers with condescension and the preconception that they were lazy. It was very common for Ruel Scott to degrade and demean African-Americans. Despite Gordon's senior status among welders, and his 35 years of welding experience, Scott would make derogatory comments about Gordon's welds. On a daily basis, Scott would comment, "you gonna have to do better," "did you get everything right," or "don't make me have to do more paperwork behind you." White workers with less proficiency and

work experience than Plaintiff Gordon did not get the same treatment. Ruel Scott's disparaging remarks were almost always targeted at African-Americans.

444. In or around 2014, Plaintiff requested a transfer from Ruel Scott's crew, realizing that Ruel Scott did not want to work with Plaintiff.

Racially Disparate Pay, Promotion, Overtime and Training

445. Plaintiff Gordon was hired at \$21/hour with over 30 years experience in July 2012. He earned multiple qualifications at NNI including certifications in MIG, TIG, Flux-Cored and stick welding. He was also nuclear certified and shipyard certified.

446. At hire, Mr. Gordon was told that welders topped-out at NNI at \$32-\$35/hour. He currently makes \$28/hour, less than the top-out rate at which similarly qualified white workers are paid. Josh Vanderbury, a Caucasian welder with approximately twelve years of welding experience and no TIG welding qualifications currently makes \$28.50 an hour, without a high school diploma or GED. Vanderbury repeatedly failed welding tests administered by Huntington Ingalls, including TIG welding tests.

447. Mr. Gordon became a permanent employee in or around November 2014 and receives fewer paid vacation days, and inferior benefits compared to the virtually all white class of workers who were made permanent prior to 2014.

448. Plaintiff Gordon is also given less overtime than equally or less qualified Caucasian workers. Overtime hours are not rotated, but instead given to the same workers. Jesse Smith, a Caucasian employee, worked more overtime than Mr. Gordon in October 2014, although he could not weld properly.

449. Plaintiff Gordon has been promoted at a slower rate than less qualified Caucasian workers. Supervisors have considerable discretion whom they promote to make-up supervisor positions. There are currently about three African American make-up supervisors and eight or nine white make-up supervisors. Before NNI became aware in January 2013 as a result of a letter instructing NNI to preserve evidence, that Plaintiffs were bringing this suit, there were no African-American make up supervisors.

450. Mr. Gordon was hired into a welding position in Kevin Angle's crew.

451. Ben Vogel, a Caucasian employee, was hired some months after Plaintiff into a similar welding position in Kevin Angle's crew. Vogel's prior experience was as a carpenter; he had no experience welding.

452. Within a year's time, Vogel was asked by Kevin Angle to cover him as a make-up supervisor, even though, Plaintiff had over thirty plus years of experience, a white employee with a year of experience was promoted over Plaintiff.

Keith Chisman

Racially Hostile Work Environment

453. Keith Chisman is an African American male. He started in March 2009 at the Swiss Log.

454. Jeff Riley used offensive racial language frequently. Mr. Chisman was likely to hear something racially offensive if working around Riley, and Mr. Chisman did, for over two years.

455. Riley constantly affected a mocking caricature of African-American speech and conduct. Mr. Chisman heard Riley say "yo yo what's up, my black brother," or a similar

statement, almost daily.

456. Riley often used the word “n*gger,” speaking about other people, such as “this n*gger did” He referred to Plaintiff Crawford as “that black n*gger bitch.”

457. Tom Castle also made frequent offensive racial statements. One of his favorite things to do was single out an African-American worker and tell him a joke disparaging African-Americans. Mr. Chisman frequently heard Castle telling other African-Americans offensive racial jokes.

458. Castle directed approximately three such jokes at Mr. Chisman. In one case, Mr. Chisman responded that “I don’t play those black n*gger jokes,” and warned Castle that “we gonna engage in hand to hand combat.”

459. Mr. Chisman complained to welding foreman Tom Jaffeux about Castle's offensive racial remarks, but to no effect. Castle continued to make offensive racial comments until he left with an injury.

460. Wayne Jackson was also one of Mr. Chisman's supervisors for several years. Chisman heard Jackson say, several times (about him) “Keith is just like he’s white, you can say anything around him.” And he did.

461. When Mr. Chisman was working on the Shaw/Westinghouse containment vessel, Jackson took a photograph of Mr. Chisman with several white co-workers. Jackson printed copies for Chisman and his white co-workers. When he handed them out, he said “damn all you can see is the white of Keith’s eyes, and his teeth and his face looks like a black inkspot, hahahaha.”

462. From that time on, Jackson called him “Ink Spot” a couple of times a week. He

would smirk when he did. It was meant to be offensive.

463. On several occasions, Jackson said “Keith, I don’t judge a man by the color of his skin or because he wears his pants sagging off his ass. I have a black niece and nephew. Here lemme show you pictures of my brother’s wife. He married a fat black woman, Jamaican bitch. Hahaha.”

464. Jackson also shared his hiring prejudices with Mr. Chisman. He would talk about people who were applying for work. Concerning African-Americans, he would say “take this brother over here, I’m not gonna hire this guy, because his pants are hanging off his ass,” or “his criminal background check didn’t look good.” However, he hired white applicants with criminal conviction histories, and white employees who wore their pants down around their knees. For example, Kevin Reems wore his pants in that manner, and Jackson would joke about it, saying “I got him a belt.”

465. Jackson very rarely gave African-Americans workers overtime. He would say to Plaintiff Chisman, “Can you work this weekend? Nah, you cannot work, I’m controlling your money.” Then Chisman would learn from his white coworkers, Norman “Binky” Crowder, Rocky Webb, Evan Reans, John Finner, and Dan Cummings, that some or all of them worked the weekend.

466. Rocky smoked cigarettes while he was operating the overhead crane. This was dangerous, and was plainly against the rules. Jackson ignored his smoking. When African-American workers smoked, outside, Jackson docked them for the time they were outside, and threatened to fire them.

467. Jackson did not value African-American welders and fitters, irrespective of their

skill levels. He made sure all of the white welders and fitters had their assignments before he gave African-Americans theirs. When they asked, he would say "I'll get back with you," as if there were all the time in the world.

468. Although Mr. Chisman was a highly skilled welder and fitter, only about 30 percent of the work Jackson gave him, and 10 percent of the work Jaffeux gave him, was welding or fitting. Most of the work they assigned Mr. Chisman, and his skilled African-American coworkers, was menial, such as mopping floors, cleaning the office, moving things from building to building or operating a forklift. They tended to assign the least desirable tasks to African-Americans. When they did give them welding jobs, it was typically arc welding, which produces more noxious gasses than the other types of welding that was done at NNI.

469. Jackson, Jaffeux, and Riley believe African-Americans are fundamentally lazy. They made their beliefs clear. White employees were allowed to take breaks without being harassed, get coffee and food and consume them while working. African-Americans were not.

470. When African-Americans took approved breaks, Jackson and Jaffeux would harass them. Jackson would say to Mr. Chisman, and other African-Americans "I don't want to see you people gathered in groups. I just want to see assholes and elbows." He followed Plaintiff Chisman to the bathroom, to make sure he was using it for the intended purpose.

471. Jackson spoke in a normal tone and volume of voice to his white subordinates. They were allowed to take breaks, smoke, and get coffee without being harassed. To his African-American subordinates he would say, "what are you doing standing around?" when they took a break. He would say to African-Americans at the end of the day, "you really stuck it up my ass today," "you didn't do anything all day long," "you were bullshitting all day."

472. Tom Jaffeux, Jackson and Riley would come in early, and use the word “n*gger,” speaking among themselves.

473. They particularly liked saying, about Plaintiff [REDACTED] Crawford, “that fucking black bitch, I can’t stand her,” or “black stinking bitch.”

474. Jaffeux would call Mr. Chisman, “dumb ass,” and “n*gger,” to degrade him, while he had Mr. Chisman and other African-Americans including Plaintiffs Willie Kershaw and Reggie Holliman, pushing around furniture, scrubbing his office, cleaning the floor, and taking out the trash. Mr. Chisman was a highly skilled welder and fitter, and Holliman was a First Class Fitter, with a two year degree in applied sciences.

475. When Willie Kershaw was working on the Pin Jig, Jaffeux asked some of his white coworkers to come outside and observe Kershaw. Mr. Chisman heard him say, “look at that black monkey go.”

Disparate Pay, Promotion, Overtime and Training

476. When Mr. Chisman started at NNI on March 24, 2009, he had approximately 20 years experience as a fitter and welder. His starting rate was \$20 an hour. Over three and a half years, he received one raise of \$1.00 and two more raises of 50 cents each.

477. Daniel Cummings, white, was working at a Burger King at the time he was hired in 2010 as a laborer, with no prior experience as a fitter. In less than two years, he was promoted to Fitter, and then Make Up Supervisor, earning more than Mr. Chisman.

478. No African-American, including Mr. Chisman, was given the quality or quantity of training Cummings received, which helped him progress so quickly. Wayne Jackson and others taught Cummings to read blueprints. He was sent to Huntington Ingalls welding school in

the shipyard, and allowed to qualify in several types of welding, including TIG welding, which allowed him to earn even higher hourly wages, and qualify for more work.

479. His progress was also aided by the belief, widely held among the white management of NNI, that whites are harder workers than African-Americans.

480. Cummings made \$20 an hour, eight months after he was hired. Given that he started with literally no experience, this was proportionally much more than Mr. Chisman.

481. John Finner, white, was hired shortly after Mr. Chisman, had no prior experience when he started at NNI. He told Chisman he was being paid “in the 20s,” within a year of hire.

482. Evan Reans was hired in 2012, with no prior experience. He received over \$20 per hour in less than a year.

483. Virtually all of the overtime, and all of the most desirable overtime, went to white workers. For instance, Norman “Binky” Crowder, Rocky Webb, Evan Reans, John Finner, and Dan Cummings often worked weekends. Mr. Chisman was not asked.

Willie Nichols

Racially Hostile Work Environment

484. Willie Nichols is an African American male. He was hired by NNI as a Fitter Welder in early 2010. At that time, he had over thirty years of experience as a Burner. A Burner cuts steel using an oxy-acetylene or plasma torch.

485. On any given day, Plaintiff Nichols was likely to see confederate flags displayed at work. Co-workers have them on display on their tool boxes—in plain sight. Co-workers wear tee shirts and bandannas with confederate flags. Mr. Nichols has seen them affixed to vehicles parked in the NNI lot.

486. On one fixture built to hold a unit NNI was building for a reactor, Supervisor Wayne Jackson had written his favored name, “Stonewall Jackson,” which made Mr. Nichols feel as though Jackson thought of himself as a slave driver. Plaintiff Nichols sees this offensive reference to slavery every time he walks by it.

487. Jackson asked Mr. Nichols if he had gotten a supervisor position he knew had gone to Matt Losy—who was completely unqualified for the promotion, and white—to rub in the fact that a less qualified white employee had been promoted.

488. Jackson repeatedly harassed African-American workers in ways he did not harass white workers. Any time two to three African-American workers stood together talking, he would act as though they were up to no good—even though the workers might be discussing how to do their work. Even when Mr. Nichols was sitting by himself, planning a job, Jackson would harass him to get back to work.

489. General Foreman Scott Jones did the same thing. He would walk through the shop, and if he saw that an African-American was not physically working, he would tell Jackson to tell him to get back to work. When Jones saw white workers not working, he would just talk with them.

490. Supervisor Scott Ruel would tell African-American workers “you are fucking off,” which he would not say to white workers.

491. Ruel directed particular venom at Mr. Nichols. When he supervised him, he would say in front of Mr. Nichols coworkers, “you can’t weld,” or “I don’t know if you can weld.” He would then assign Mr. Nichols grinding work, or to heat materials for the welders, which was unskilled work. He called Mr. Nichols “stupid” in front of a coworker.

492. In fact, Mr. Nichols had been tested by Huntington Ingalls, at the shipyard, and had been qualified to weld each of the types of welds he was required to perform at NNI. Ruel had failed the same tests. Ruel was biased against African-Americans and humiliated Mr. Nichols because he felt humiliated that an African-American had passed tests he had failed.

493. Ruel asked coworker Jimmy Nicks if he had gone to a car show being promoted by a black organization. Nicks responded “no I don’t hang around that kind of people.” Kevin Angle, a Supervisor, cautioned Nicks, “watch your mouth.” Nicks responded, “them people, Democrats.” Although he repeated the offensive racial statement in slightly different form, after being warned by Angle, no one said anything further to Nicks, and he was not disciplined.

494. In June 2014, Ben Vogel called a hotline anonymously, lied, and claimed that Mr. Nichols had put a knife to someone's neck. Two Huntington Ingalls security officers and a Human Resources employee escorted Mr. Nichols to his car. He was suspended pending an investigation. The investigation failed to find anyone whom Mr. Nichols had threatened, with a knife, or otherwise.

495. Immediately after he was marched out, Josh Vanderbury asked Vogel, “why did you get that man in trouble,” referring to Mr. Nichols. Vogel responded, “I did not call no hotline.” This was before it had been learned that the complaint came through the hotline.

496. That same day, David Swain observed Jimmy Nicks and Vogel high five-ing each other. Vogel said, “he ain’t coming back.”

497. Mr. Nichols received a call on his cell phone from someone who blocked their number. The caller said, “we didn’t get you this time, but we’ll get you next time.”

498. When whites engage in actual threats of violence towards African-Americans, it is

treated as amusing. James Adams, a white coworker, threatened to stab Ian Blow in the neck with a pen. When Scott Jones was informed, he just laughed.

499. Mr. Nichols learned that a noose was found hanging in his building, Enterprise Drive. Had it not been cut down by some of the employees who found it, Mr. Nichols knew he could have discovered it.

Retaliation

500. Plaintiff filed his claims against NNI on February 11, 2015. Prior to bringing his lawsuit, Plaintiff had never been subject to disciplinary write-ups.

501. On March 17, 2015, Plaintiff received a “final” write-up falsely alleging that he had intimidated or coerced an employee by word or act, which he had never done. The write-up referenced as the basis for the disciplinary action Plaintiff’s leaving work on one occasion ahead of schedule, Plaintiff’s use of NNI’s corrective action database to report Ben Vogel’s unsafe driving in a parking lot and his comment to a supervisor that he did not like Vogel because Vogel had falsely accused Plaintiff of threatening him with a knife. Other allegations made in the write-up Plaintiff denied.

502. The write-up was given in retaliation for Plaintiff’s bringing a lawsuit against NNI and his attempt to use NNI’s formal complaint system to bring continuing mistreatment to NNI’s attention.

Disparate Pay, Promotion, Overtime and Training

503. When NNI hired Plaintiff Nichols in 2010, NNI was already well aware of his superior skills as a burner. He had worked for Huntington Ingalls in the shipyard for twenty years as a burner. His performance was excellent. When he interviewed with Dan Pessell, Jeff Riley,

who had worked with him at the shipyard, told Pessell how good he was at his job. In addition, Mr. Nichols worked for G&R Metals for 14 years, during which time he ran a CNC Burn table, which is a sophisticated, computer controlled Burn table, and requires a great deal of experience to operate. At G&R he did a lot of work for the shipyard.

504. When he was hired at NNI, he was a known commodity. During his interview, Mr. Nichols received an offer to start at \$22 per hour. He was hired as a temporary employee, which meant he did not receive the benefits that a permanent NNI/Huntington Ingalls employee received.

505. He was told that NNI intended to have him run the CNC Burn table on the night shift, where he would work unsupervised. He would start on the day shift.

506. Mr. Nichols was told that NNI would make three Burners permanent employees. His understanding was the three would be Derek Council, whose entire experience was one year at NNI, Doug Grossman, who had been a helper before coming to NNI and whom Mr. Nichols had taught to weld, and Mr. Nichols.

507. Instead of hiring any of the three as permanent Burners, NNI made one Burner permanent. The position went to Matt Talley, who had approximately three to four months' experience. Matt Talley is white. NNI passed over an African-American Burner with over 30 years of experience, including 20 years working for the shipyard for NNI supervisors who had extolled the quality of his work, for a white employee who had essentially no experience.

508. Mr. Nichols also had approximately six years experience just welding (not burning). With all of his shipyard experience, he was well qualified to supervise welders and fitters.

509. After the permanent Burner position went to a less qualified white worker, a Welding and Fitting Supervisor position opened in 2013. Mr. Nichols applied. NNI chose Matt Losy, white, who had approximately one year of experience. Losy was incompetent, and was fired soon after his promotion.

510. In 2014, Kevin Angle promoted Ben Vogel to Make-up Supervisor. Prior to working at NNI, he was a swimming pool cleaner. Vogel was supposed to be a fitter, but he was incapable of fitting, even with constant supervision.

511. NNI does not post Make-up Supervisor position openings, but rather, relies on a tap on the shoulder by a supervisor. NNI was aware that Mr. Nichols was seeking promotions, because he had previously applied for the Welding and Fitting Supervisor position in 2013. Vogel, who is white, and grossly unqualified, got the tap on the shoulder.

512. As recently as April of 2014, NNI has continued to promote white workers with a year's experience or less to Make-up supervisor positions passing over Plaintiff Nichols. Bryan Briggs, a white worker fresh out of welding school, was promoted into a Make-up Supervisor position in or around April of 2015 to supervise Plaintiff Nichols.

513. Employees at NNI are selected for overtime based on their race. In October 2014, Make-up Supervisor Ben Vogel told Mr. Nichols there was no overtime available on the weekend. When Mr. Nichols drove by on the weekend, he saw Josh Vanderbury and Jesse Smith's cars in the lot. Vanderbury admitted to him that he was working overtime over the weekend. Vanderbury repeatedly failed welding tests administered by Huntington Ingalls, including TIG welding tests. Mr. Nichols passed the same tests on his first try. Smith was even less qualified. He had no experience, he could not weld, and he ruined so much work that NNI

stopped assigning him welding. The sole reason these men received overtime was their white race.

514. There were several white employees on Mr. Nichols' crew, and five African-Americans. If there was more overtime than Vanderbury, Smith and Vogel could handle, the other white employees received the work.

515. There are different performance standards for whites and African-Americans. In 2014, an African-American welder was fired for exceeding the half-inch limit on a bead. He was terminated. That same year, Donald LNU, a make up supervisor, did something far worse: he ground through an entire plate. This gave the customer the right to demand the replacement of the entire unit. It is something that all welders are repeatedly warned never to do. Donald was promoted to Supervisor after this incident.

Alfred Joyner

Racially Hostile Work Environment

516. Alfred Joyner is an African-American male. He began at NNI in 2001 as a welder. He has been welding since 1975 and had experience in TIG, MIG, flux-cored and stick welding before starting at NNI.

517. Plaintiff was racially harassed and continues to be harassed regularly since he began at NNI. Supervisors and coworkers made frequent racially offensive remarks at Plaintiff and his African American coworkers. Plaintiff also overheard white workers refer to him as a “n*gger,” compare him to a mouse, and make references to hangings, even in front of supervisors.

518. Over Plaintiff's initial years at NNI, Jeff Riley supervised Plaintiff Joyner. On a

daily basis, Riley parodied African American speech and conduct, pretending to walk with a gangster stroll and referring to other African Americans as “brothers.” He made derogatory racial comments on a regular basis and Plaintiff Joyner knew to expect a derogatory remark whenever he was in Riley's vicinity.

519. Riley used obscene language towards African American women, commenting about their bodies, breasts, and legs.

520. Joyner also experienced discriminatory treatment while supervised by Thomas Jaffeux, who demanded more of African-American workers than of white workers. For example, when Smith, an African-American worker, was learning to weld, Jaffeux constantly criticized him. Jaffeux called him “stupid,” and made belittling remarks towards him.

521. Jackson, Plaintiff's supervisor, frequently directed racially offensive remarks at African-Americans, for example, calling workers, such as Ron Valentine, gang members.

522. Plaintiff worked outdoors within the vicinity of the pin jig project for four months. The majority of the workers required to work outside during the cold months were African-Americans. When Plaintiff Joyner complained to Tommy Hines that it was too cold to be working outside, Hines was unsympathetic. Tommy Hines regularly belittled African-American workers and spoke to them condescendingly.

523. While outdoors, Plaintiff and his African-American coworkers would get coffee in the morning to warm up. When supervisors realized that African-American workers were having coffee, the coffee room was moved and restricted to whites. To circumvent the restriction, Plaintiff had to ask Scott Galloway, a white worker, to get him coffee.

524. In or around 2011 or 2012, at least twice a week for two months, Plaintiff saw

Benny LNU wear a t-shirt with the caption “redneck fishing.” The t-shirt depicted an African-American tied by his feet, underwater, being used by a white fisherman to fish. He wore it in plain view of supervisors.

525. Throughout the time Plaintiff Joyner has been employed at NNI, Steve Sheg has directed harassing comments at him, calling Joyner “stupid,” and mocking his speech.

526. On a weekly basis, Plaintiff has heard racist comments and experienced racist mistreatment by his white coworkers over the past three years. By way of example only:

- a. He has heard workers calling African-Americans “niggers.”
- b. Floyd Roach, a white coworker, while handling a rigging sling, said, “don’t worry I’m not going to hang you today.”
- c. A white machinist commented about him that “he’s not like the rest of them.”
- d. A whole rotisserie chicken eaten down to the bone was left on his chair.
- e. His tools have been moved around.
- f. He was called a rodent.
- g. An apple eaten to its core was left on his chair.
- h. James (LNU) regularly throws pennies at Plaintiff, telling Joyner to chase them.
- i. He has been called “Tweety-bird” and a chipmunk.

527. Plaintiff complained to Mike Schwartz in the summer of 2014 about the harassment, including that his tools and work equipment was being misplaced. In spite of his complaints, the harassment is ongoing.

528. Plaintiff also complained to the company hotline that he has heard workers make derogatory comments; the comments continue despite his complaints.

529. Throughout the time he has been at NNI, he has seen cars with confederate flag license plates parked in the NNI lot.

Racially Disparate Pay, Promotion, Overtime and Training

530. Plaintiff Joyner worked at NNI as a temporary worker, receiving approximately \$18/hour to \$19/hour.

531. After working for three years at NNI, he was hired on as a Mechanical Technician Two. As a permanent worker he had to take a salary reduction, working at \$17/hour. He was paid less than comparable white workers.

532. White workers, such as Penny (LNU), were given the opportunity to be hired on as permanent workers after working at NNI for two years or less. Penny had less experience than Plaintiff, but was hired into a Mechanical Technician Three position. Unlike Plaintiff, he had no TIG welding qualifications, pipe welding qualifications, and he was not nuclear certified.

533. Plaintiff was only recently promoted to Mechanical Technician Three.

Naseer Marshall

Racially Hostile Work Environment

534. Naseer Marshall is an African-American male. He has been jointly employed by NNI (and Steel America), from August 2013 through the time of filing this Amended Complaint. Marshall was hired as a welder. At the time of his hire, Marshall had eight years of experience as a Welder, first class.

535. Marshall works in the Enterprise building.

536. In November 2014, Plaintiff Marshall and several African-American coworkers were chased out of a conference room so that NNI could maintain it as a segregated eating

facility. A white worker was allowed to remain.

537. Marshall hears racially offensive remarks on a daily basis.

538. By way of example only, Plaintiff Marshall hears Caucasians using the terms “nigger” and “ghetto” on a regular (daily or near daily) basis. These terms are used out in the open, in areas where supervisors are present.

539. Marshall and other African-American workers are referred to as “boy” every day. Tommy Hines, a Caucasian NNI employee in charge of weld testing, who determines whether an employee has passed various tests, regularly calls Marshall and other African-Americans “boy,” saying things like, “what do you want boy?” or “boy, you’re not supposed to be here.” Hines calls them “boy” in front of other supervisors.

540. Hines is aware that that term is offensive, and that African-American workers do not want to be referred to as “boy.” For example, an African-American worker was taking a weld test. Hines asked, “Boy what are you doing without your safety glasses?” The worker told Hines, “‘Boy’ is not my name.” The worker was so upset that he walked away and was not able to take the weld test.

541. Wayne Jackson also refers to African-American employees as “boy.”

542. When groups of African-American workers walk together, other supervisors say, “hey boy, where are you going, you know your job is over here.”

543. Workers regularly engage in racially offensive commentary regarding African-Americans. For example, Caucasian workers mimic African-Americans' speech, and engage in stereotyping on a daily basis. By way of example only, Chris Carry, a Caucasian Steel America-provided employee, makes comments like, “what’s up my nigger?” “look, they [referring to

African-Americans] ghetto;” “what’s that shit you listening to;” “listen to the music they [African-Americans] listen to.” NNI and Steel America-provided supervisors are often present for Carry’s comments, which go unaddressed.

544. Another Caucasian worker [name unknown] complained to Mel Walden, (a former Steel America supervisor who is African-American and Native American, but whom many Caucasian employees believed to be Caucasian) about music some of the African-American workers listened to, all while blaring his own music. The worker complained, “I do not want to listen to that ‘gangster’ music.” Walden instructed African-American workers to turn down their music, but not Caucasian workers.

545. Marshall and others are forced to see the Confederate flag, which is on at least one of the vehicles in the parking lot, on a daily basis.

546. In or around January/February 2014, a Caucasian NNI worker wore a weld hat with a Confederate flag image.

547. In addition to having to face the Confederate flag regularly, African-American workers are exposed to other symbols of racial oppression. For instance, a worker drew a Swastika on the shop table, visible to and seen by NNI management, which was not removed for several days.

548. From approximately August 2013 through spring 2014, Marshall worked with Wayne Jackson. Throughout this period, Jackson made racially offensive remarks on a regular basis, including comments like “you people [referring to African-Americans] are lazy.”

549. Jackson regularly treated Plaintiff Marshall and other African-American workers differently from and worse than Caucasian workers. For example, Jackson regularly asked what

African-American workers were doing, and demanded to know how long it would take for them to complete tasks, berated African American's for smoking, and told them "get back to work, you're not getting paid to stand around." However, with Caucasian workers, he ignored the length of their smoking breaks, socialized and joked with Caucasian workers while refusing to do so with African Americans, and did not tell them to go back to work.

550. Other supervisors also treated African-American workers worse than Caucasian workers. For example, Doug McKercher, an NNI superintendent, regularly told Walden to instruct the African-Americans to "get back to work." When they complained to Walden that Caucasian workers were also taking breaks, they were told "that's just the way it is."

551. Plaintiff Marshall complained to Walden that African-American workers are treated differently, and told to get back to work, compared to Caucasian workers who were not told to go back to work, at least two to three times a week. Walden spoke to Steel America Superintendent Brian Treat, and later responded to Plaintiff Marshall that "it's 'their' [NNI's] house." Nothing changed.

552. When McKercher became aware that Walden was actually African-American despite "looking" Caucasian, he informed Walden that he would prefer that a [Caucasian] junior worker, Dale Spilker, supervise on Steel America projects. Spilker became supervisor even though Walden had 28 years of welding experience and one and a half years of supervisory experience with Steel America, compared to Spilker's five or six years of welding experience and no supervisory experience. Spilker was paid \$25/hour, compared to Walden's rate of \$24.50. Both Marshall and Walden understood McKercher's request to have Spilker supervise, and subsequent change in supervision, to be discriminatory.

553. African-American workers are treated worse than white workers in other ways.

554. Steel America-provided Caucasian workers are permitted to park in NNI's parking lot. Not only is Plaintiff Marshall prohibited from doing so, he was threatened with being written up and suspended for doing so.

Constructive Discharge

555. Plaintiff was forced to resign on February 12, 2015, after continuing to experience a hostile work environment despite his complaints to management about the hostile work environment and the filing of a lawsuit against NNI in September 30, 2014.

556. Even after Plaintiff's complaints, Plaintiff continued to regularly hear his coworkers use racial slurs, such as n*gger, to refer to African-Africans multiple times a week. Plaintiff's supervisors continued to treat African-African workers differently than white workers. Plaintiff continued to be paid at a rate between \$3/hour to \$4/hour less than his white coworkers.

557. After taking FMLA approved leave from February 7, 2015 to February 11, 2015, he texted his supervisor that he was resigning. His supervisor approved the resignation. Subsequently, he received a letter from Steel America falsely alleging that he had abandoned his job, which he had not, and denying him compensation for the paid time off he had accumulated.

Racially Disparate Pay, Promotion, Overtime and Training

558. Marshall is paid less than Caucasian workers with similar skill and training.

559. Marshall was hired at a rate of \$18.35, and continues to earn that amount.

560. Caucasian workers (provided by Steel America) with similar skills and qualifications, who began working at NNI after Plaintiff Marshall received raises, make more per hour than Marshall. For example, John Hill, Caucasian, received at least one raise, upon

information and belief earning \$21-22/hour, but unlike Marshall, is often late to work.

561. In approximately September 2013, Plaintiff Marshall asked Dale Spilker, Steel American Superintendent for a raise. Spilker denied his request, claiming that Marshall had bad attendance. However, Plaintiff's absences were FMLA-excused and should not have been used in compensation decisions. Caucasian workers with attendance issues, such as John Hailey, have received raises despite being absent more than Plaintiff Marshall. Similarly, John Hill and, upon information and belief, Michael Snead, both Caucasian, have received raises despite that their performance at work is no better than Plaintiff Marshall's.

Anthony Alvarez

Hostile Work Environment

562. Anthony Alvarez is Puerto Rican.

563. Mr. Alvarez began working at NNI as a Fitter in September 2013.

564. While worked under the supervision of Wayne Jackson, Mr. Alvarez frequently experienced race based harassment.

565. Jackson referred to Mr. Alvarez as "boy." Jackson did not refer to his white subordinates as "boy."

566. Mr. Alvarez was surrounded by racism at NNI. In the company parking lot he saw cars and trucks bearing the confederate flag. In the men's room he saw the word "n*gger" on the walls.

567. He was constantly disparaged and harassed because of his race. When white workers took breaks, or took time to talk to one and other, they were left alone.

568. When Mr. Alvarez, or African-Americans did the same thing, Jackson belittled

them, raised his voice to them, threatened them and treated them like disobedient children. He was extremely disrespectful. He would say “ya’ll got to move, stay active and engaged.” Jackson spoke to him this way when Alvarez’ discussion related directly to work being performed, such as when Mr. Alvarez asked an African-American co-worker to borrow a tool.

569. On January 14, 2015, Jackson engaged race-motivated harassment, which typified the conduct Jackson engaged in daily. From 7:00 am until 12:00 pm, Jackson remained within ten to twenty-five feet of Mr. Alvarez, watching him work the entire time. Jackson was unable to catch Mr. Alvarez doing anything prohibited, so he made up the absurd claim that Mr. Alvarez was absent from his work area for two and one half hours—even though Jackson had watched him work the entire time.

570. The only time Mr. Alvarez left his work area that morning was when he went to retrieve pallets he needed for the work he was doing, when he went to his tool box to obtain protective sleeves, and several cigarette breaks, which are allowed.

571. Human Resources for NNI is provided by Huntington Ingalls shipyard. As he was required to do, Mr. Alvarez made a complaint about Jackson’s harassment to TJ Smith, who has a position in Human Resources at Huntington Ingalls.

572. Although Mr. Alvarez was a skilled Fitter, Jackson assigned him to sit and grind steel all day. It was dirty work, which did not improve his skill level, and therefore impeded promotion. It was the same work that Jackson assigned to laborers he supervised. Jackson was much more likely to assign grinding steel to Mr. Alvarez and African-American workers than white workers.

573. When work was slow, Jackson assigned Mr. Alvarez menial tasks like sweeping

and cleaning work. While he was assigning these tasks to Mr. Alvarez and African-Americans, whites were assigned to review work-related documents. They remained huddled up, talking.

574. Jackson gave out assignments based on race. Whites always got theirs first, then African-Americans, and then Mr. Alvarez. It made no difference to Jackson how early Mr. Alvarez was to work, he was always last to receive his assignments.

575. If Mr. Alvarez even looked at his cell phone to see the time, Jackson yelled at him. When he pointed out white workers openly talking on their cell phones, Jackson said "I am not worried about them, I am worried about you."

Disparate Pay, Promotion, Overtime and Training

576. When Mr. Alvarez started as a fitter in September 2013, at \$17.50 an hour, he had four years of previous fitter experience.

577. When Brandon Burton started as a laborer, in about November 2013, on information and belief, he had no prior experience as a fitter. He made \$12 per hour. During his first two months on the job he frequently came to work high on drugs and/or alcohol. One day he curled up on top of Operations Manager Wade Lynn's desk and fell asleep.

578. Nonetheless, after two months, he was promoted to Fitter, at \$18 an hour.

John Harris

Racially Hostile Work Environment

579. John Harris is an African American male. He was jointly employed by NNI (and Steel America), from June 3, 2014 through January 22, 2015. Harris was hired as a welder. Harris began welding in 1989, and has many years' of experience. Harris works in the Enterprise building.

580. Harris experienced a racially hostile environment throughout his employment. For example, in a bathroom used by supervisors, Plaintiff Harris on a daily basis observed racist graffiti, including “niggers go back to Africa,” “white power, black power sucks,” “fuck you niggers,” and “hate niggers.” These types of comments would remain for months. Some of the graffiti was carved into the wall/door, or written in Sharpie. Only after the instant suit was initially filed on September 30, 2014, graffiti has been removed more quickly than prior to the suit's filing.

581. In October 2014, McKercher informed Plaintiffs Harris and Marshall, along with four other African-American employees, that they could no longer eat lunch in a conference room. However, Ronald Blackburn, Caucasian, was allowed to remain. Since then, African-American workers were not permitted to use the conference room to eat; Blackburn continues to use it regularly. The conference room has been maintained as a segregated facility every day since then, and as a consequence, Mr. Harris was not allowed to use it.

582. Mr. Harris saw the confederate flag daily at NNI. An employee at NNI parks his car in a lot used by supervisors, and displays the Confederate flag in the windshield. Similarly, another car parked in the same lot has a Confederate flag on the license plate.

583. Plaintiff Harris felt disparaged on account of his race, when he learned that McKercher informed Mel Walden that he would rather work with Steel America-provided employee Dale Spilker than Walden, after having found out that Walden was African-American.

584. Spilker became supervisor even though Walden had 28 years welding experience and one and a half years' of supervisory experience with Steel America, compared to Spilker's five or six years of welding experience and no supervisory experience. Spilker was paid

\$25/hour, compared to Walden's rate of \$24.50. Both Harris and Walden understood McKercher's request to have Spilker supervise, and subsequent change in supervision, to be discriminatory.

585. In November 2014, Plaintiff, along with another African-American worker, Sean Chandler, was moving a welding machine to an area where Jay (LNU), a white NNI leadman/make-up supervisor was working with four others. Jay exclaimed, "ooh, here comes the riffraff, here comes the riffraff; there goes the property value over here now." Harris objected, asking, "that's not a racial slur you're calling me, is it?"

586. Caucasian workers are routinely treated better than African-Americans in connection with job performance. For example, in November 2014, Jay [LNU]'s crew made a mistake on a welding plate, but no one was reprimanded. Caucasian workers impermissibly stand at the top of ladders, without discipline. The same supervisors who say nothing to Caucasian workers being on the top of ladders told Harris that he could not do the same.

587. Steel America-provided employee John Held (Caucasian) picked a combination lock on the Metal Shack containing controlled metal for a nuclear project, which was a violation of federal regulations. Spilker, a supervisor, asked who had left the gate open. Harris and another worker answered that it was "John." There were three employees named John; two are African-American (Plaintiff Harris, and John Green), along with John Held. In an aggressive voice, Spilker asked "which John?" When Spilker learned that it was John Held, he merely shook his head and took no disciplinary action, although it was a terminable offense.

588. On the other hand, when Plaintiff Harris placed a spool of metal outside the Metal Shack, he was told he would be discharged if it happened again. On another occasion, Plaintiff used an unofficial computer scan sheet to scan his work. Although he had never been formally

instructed not to use the sheet, which had formerly been used for logging, the site Superintendent told him, “if you have a problem following procedures, we do not need your services.”

589. In January 2015, Spilker suspended Plaintiff Harris for three days for parking in the NNI lot, despite having driven in with an NNI employee, which allowed him to park there. He had been parking in the lot for approximately two weeks because he had not been feeling well. His supervisor did not provide a verbal or first written warning. Upon information and belief, Caucasian Steel America-provided employees have parked in the NNI lot but have not been disciplined. Harris told Spilker that the suspension was discriminatory.

Racially Disparate Pay, Promotion, Overtime and Training

590. Harris was paid less than Caucasian workers with similar (or less) skill and training. Harris moved to Virginia to work at NNI. He was initially told that he would receive \$23/hour; however, when he began working at NNI, he was paid only \$21.50/hour. Steel America Human Resources told him that he would receive a raise within 90 days of his start date if he had good attendance and received needed qualifications. However, after 90 days, despite a positive evaluation from Mel Walden, he never received a raise.

591. Bryson Anderson, a Caucasian Steel America-provided worker, with no background in welding, was hired at \$22/hour.

592. Harris was not given training opportunities that were given to similarly-situated Caucasian workers. For example, Plaintiff Harris requested to take the TIG test, which allows workers to perform different types of welds. TIG-qualified welders are eligible for more overtime and more jobs than non-TIG welders. Walden informed Harris that NNI was not enrolling anyone for TIG tests. However, Bryson Anderson, a Caucasian Steel America-provided

employee was permitted by NNI to take not only the TIG welding test, but the flux core test. Walden told Harris that Scott Jones, Shop Manager at NNI, allowed Anderson to take the tests.

Retaliation and Race Based Termination

593. On January 22, 2015, after he returned to work following his suspension for parking in the NNI lot, Superintendent Treat took Harris aside and asked him about it. Harris explained that he had told Spilker that the decision to suspend him was discriminatory when Held was not disciplined for his action, and reiterated to Treat that he suspension was discriminatory. Treat discharged Harris, without providing any reason.

Kevin Smith

Racially Hostile Work Environment

594. Plaintiff Smith is an African-American male. He began as a welder at NNI in approximately September 2010. He worked at NNI until November 2012, and again from September 2013 to the present. Plaintiff had eight years of experience welding including experience in stick, MIG, and Flux-cored welding when he began at NNI.

595. Thomas Jaffeaux and Jeff Riley supervised Plaintiff Smith during his employment from September 2010 to November 2012. Jaffeaux, Doug Todd, Ryan Scott, Wayne Jackson, Jimmy Leary and Mike Schultz supervised him during his employment from September 2013 to the present.

596. Plaintiff experienced racial harassment by supervisors and coworkers on a daily basis and continues to do so. Supervisors regularly made derogatory comments about Plaintiff's hair, caricatured African-American gait and demeanor, and called African-American workers dumb. Plaintiff's coworkers, such as Floyd LNU openly directed racial slurs at African-Americans.

597. Plaintiff regularly observed supervisors and coworkers wearing racially offensive t-shirts such as t-shirts depicting the Confederate flag, or a “Redneck Fish-finder t-shirt,” depicting an African American man with his head underwater, his feet tied, and a Caucasian individual in a boat using the African American to fish. In 2012, Jackson attempted to ban Obama-related paraphernalia, but did not attempt to ban racially offensive tee shirts, which workers continued to wear.

598. When Plaintiff began at NNI, he was supervised by Jaffeux from September of 2010 to November of 2012. On a daily basis, Thomas Jaffeux, demeaned Plaintiff and his African American coworkers on saying, by way of example only, “y’all brain dead,” and telling African Americans they were “stupid.”

599. Jaffeux assigned labor intensive jobs to African Americans and made their jobs more uncomfortable by having them sit on the floor or on five gallon buckets rather than on chairs provided to Caucasian workers.

600. Most of the work Jaffeux assigned to Plaintiff Smith, such as sweeping and transporting objects, was outside of his job duties. Caucasian welders, in comparison, almost exclusively did welding work. As a result of the arduous work to which he was assigned, Plaintiff suffered a back injury. When he notified Jaffeux of his injury, no accommodation was made for him, and he continued to be required to undertake physically demanding work.

601. Beginning in the Summer of 2011, for approximately six months, Jeff Riley supervised Plaintiff and directed racially offensive language at Smith. Three to four times a week, Riley acted out caricatures of how African-Americans walked and talked, using phrases like “yo yo yo,” “bubba,” and “boy” to imitate them. Riley made derogatory comments about

Plaintiff's hair, saying, "y'all with your nappy hair." Riley spoke condescendingly to Plaintiff and his African-American coworkers but not to Caucasian workers.

602. In 2011 or 2012, Plaintiff was assigned to the pin jig project under Jaffeaux's supervision. While working on the pin jig project, Plaintiff was required to work outdoors in very cold and below freezing temperatures without rotation, while Caucasian employees worked in temperature controlled environments indoors.

603. Every other day, for months, Jaffeux threatened the jobs of African-American employees, saying to Plaintiff, for example, that if he did not perform better, "you can go look for another job,"; Plaintiff's white coworkers were not treated similarly.

604. In or around May of 2011, for approximately four months, Plaintiff Smith was assigned to work at NNI's warehouse under Jaffeux's supervision, where he continued to be treated in a discriminatory manner. In a crew of five workers, three African-Americans and two Caucasians, the Caucasians did little work. Jaffeaux observed the Caucasian workers doing very little and said nothing. In fact, on one occasion, when the African-American workers asked their Caucasian coworkers to contribute to the work, Jaffeaux became upset and threw three chairs across the room, telling Plaintiff and his African-American coworkers that they could stand for the rest of the day.

605. In or around November 2012, Jaffeaux laid off Plaintiff and two other African Americans because NNI had little work. At the time, Plaintiff had been assigned to a submarine construction project and had been working on a daily basis; during the same time, a number of Caucasian workers, including Lee Jarvis, Steven Smith and Nathan Barefoot, had little work and

sat around all day; the Caucasians were retained by NNI.

606. Plaintiff returned to NNI in September of 2013 and continues to experience racial harassment and discriminatory treatment. Plaintiff's coworkers have heard Floyd (Last Name Unknown), a Caucasian worker, refer to African Americans as "n*ggers" and Plaintiff, himself, has observed Floyd make offensive racial comments about Plaintiff Alfred Joyner, saying for example, "he's ok, he's not like the rest of them." He has also observed a number of alarming "pranks" played on Plaintiff Alfred Joyner, including workers leaving chicken bones and a half eaten apple on Plaintiff Alfred Joyner's chair, and moving around Alfred Joyner's tools.

Racially Disparate Pay, Promotion, Overtime and Training

607. NNI hired Plaintiff Smith at an hourly rate considerably lower than that paid to Caucasian employees with similar skills and experience. The disparity between his rate of pay and that of Caucasian employees with similar skills and experience widened over time as Caucasian workers were given raises and promoted. Ultimately, he was paid \$3/hour to \$6/hour less than Caucasian employees with similar skill and experience.

608. Specifically, Plaintiff had ten years of experience as a welder and was hired at \$18/hour. Plaintiff was told that he would be evaluated at intervals of 30 days for 120 days, and would receive raises with the evaluations. Over the first 90 days, Plaintiff's wage was increased to \$21.00/hour; he received no subsequent raises until he was rehired. In September 2013, Plaintiff's wage rate was \$22/hour.

609. In comparison, Jesse Smith, who was hired around the same time as Plaintiff and had only two or three years of experience welding received regular raises and by September 2013, was making \$26/hour.

610. In or around January 2014, a white welder, Joe (LNU), was hired at \$26/hour, with no prior experience in the trades.

611. In his evaluations, Plaintiff's supervisor Tommy Jaffeux consistently awarded Plaintiff an overall rating of 4 on a 1 to 5 scale, with 5 being the highest rating possible. Plaintiff passed all requisite testing standards for welding.

612. In July 2011, Plaintiff was sent to welding school to be trained on an another type of welding. Despite his improved skills, he received no wage increase. Other white welders with his skill and experience were making \$24 to \$28/ hour.

613. In Spring of 2012, Plaintiff requested a raise, which was denied. Jaffeux told him that if he improved his welding over the next six months and came to work on time, Jaffeux would "see what he could do." Plaintiff's welding had already passed Huntington Ingalls' shipyard testing, but Jaffeux claimed his skills were insufficient. In reality, it was the fact that Smith is African-American that failed Jaffeux's standards, not his welding.

614. During the six months after Smith requested the raise, Plaintiff's welding further improved. When Smith asked again for a raise, in late summer of 2012, Jaffeux flatly refused it.

615. Soon after, Plaintiff asked for a raise again. Jaffeux responded that raises were no longer being given. Later, Plaintiff found out from a white coworker, Jerry Mediture, that Mediture had received a raise after Jaffeux had claimed there were no more raises, that he was making \$22.00 an hour, a dollar more than Plaintiff.

616. Plaintiff continued to receive positive performance evaluations from Jaffeux, but never a raise.

617. In March 2014, Plaintiff was made a permanent employee at NNI and received a

benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Tourke Hooker

Racially Hostile Work Environment

618. Tourke Hooker is an African American male. He applied to become a fitter at NNI in 2010. He was hired as a mechanical technician. Plaintiff Hooker's primary job duties were sandblasting and attending to the tool room ..

619. Jaffeux, Jackson, McKercher, Robert Slaughter, and Clem Stewart have supervised Plaintiff during his employment at NNI.

620. Throughout the time he has been working at NNI, Plaintiff has been subjected to race-based harassment. Supervisors and coworkers regularly directed racial comments at Plaintiff Hooker, including calling him "boy," "black ass bitch," and "brown posse." Coworkers regularly used racial epithets such as "n*gger" in his vicinity, in front of supervisors.

621. Jaffeux was among the first supervisors who supervised Plaintiff. Jaffeux frequently addressed Hooker and other African-Americans as "boy."

622. In addition to directing racially offensive language at Plaintiff, Jaffeux regularly assigned more physically demanding work to African American workers relative to whites. For example, Jaffeux frequently assigned Plaintiff Hooker and his African American coworkers to work outdoors in extreme weather temperatures, while white workers were assigned work indoors. .

623. When Plaintiff Hooker requested training to make his job less physically demanding, Jaffeux denied his requests. For example, part of Plaintiff's job was to transport materials from inside the NNI building to the outside to assist painters. Plaintiff asked Jaffeux for forklift training to facilitate his work and improve safety, but was denied the training. Because Jaffeux was constantly rushing Plaintiff's work, without forklift training Plaintiff was often forced to physically transport heavy material himself—at the risk of injury. Plaintiff continued to ask Jaffeux for forklift training but was required to wait for a year and a half, unlike white workers, such as Daniel Cummings, who received the training almost immediately.

624. Jackson supervised Plaintiff Hooker after Jaffeux, and also regularly subjected him to race-based harassment. Approaching Plaintiff and his African American workers with the stereotype that African American workers are lazy, Jackson constantly hounded Plaintiff and African-American workers, “do this,” “get this done,” and impatiently asked, “why haven’t you finished this.” In comparison, Jackson approached white workers in a more respectful manner, asking, “is it possible to finish this today?” He stood over Plaintiff and his African-American workers monitoring their progress, but allowed white workers to socialize throughout the day.

625. Jackson regularly assigned Plaintiff and his African-American coworkers more physically demanding work than white employees, and did not rotate the jobs.. While working for Jackson, Plaintiff was assigned grinding work using a 150 lb stone grinder; if white workers received grinding work, it was using the die grinder, weighing 3 to 5 lbs, which required vastly less physical strength. More often, whites were given jobs that helped them progress in their careers, like blueprint reading, rather than grinding jobs.

626. In or around 2013 or 2014, Plaintiff was transferred to work in the tool room, and

was also required to continue his sandblasting duties. At first, Jackson continued supervising Hooker; later it was McKercher, then Slaughter, and finally Clem Stewart.

627. White workers frequently made offensive racial remarks to Plaintiff while he was working in the tool room. By way of example only, Stan Matlock, Scott Jones' nephew, commented to Plaintiff, “ [I don’t discriminate,] I have a truck with black tires” and also, “I can talk to you, you’re cool.”

628. Levy Cluts on multiple occasions joked, “why are black people scared of chainsaws, because when you start it up it says nigger, nigger, nigger.” Offensive racial remarks spewed out of Cluts's mouth regularly.

629. In October of 2014, Levy Cluts sent Brandon Walker a video of white families square dancing to Johnny Rebel’s “nigger hatin’ me.” In the video, gleeful whites danced to sing-song lyrics stating, “stick your black head out and I’ll blow it/the NAACP can’t win if the whites stick with nigger hatin’ me.” When Walker showed the video to Hooker he was nauseated.

630. Other NNI workers also felt comfortable openly making racist remarks at Plaintiff. Multiple times a week, Mathew Graham referred to Plaintiff as the “brown posse,” sometimes while his make-up supervisor, Alex Blackwell, was present. Graham also sent a note to Plaintiff Hooker calling Plaintiff a “black-ass bitch.” He duct-taped Plaintiff’s bottles of Gatorade together and poked a hole in one Gatorade bottle so Plaintiff Hooker's lunch box would be full of Gatorade.

631. Though it was common knowledge that Graham harassed Plaintiff and made racially offensive comments to Plaintiff, and supervisors like McKercher and Stewart knew of Graham's harassing behavior towards Plaintiff, the supervisors did nothing to address the

situation.

632. McKercher, Clem Stewart and Robert Slaughter regularly assigned physically demanding sandblasting duties to African Americans over whites. Plaintiff frequently complained to McKercher that he did not want to sandblast because it was unsafe. He explained that he had an accident previously where the blaster misdirected for less than a second and blasted his skin off. Even so, McKercher required Plaintiff Hooker to sandblast.

633. Plaintiff's already dangerous job of sandblasting was made even more dangerous when McKercher reduced the sandblasting shift to Plaintiff alone. When working without a partner, Hooker had no support to ensure assistance in the event of an emergency.

634. In or around December of 2014, Alex Blackwell, Plaintiff's make-up supervisor, indicated that McKercher wanted Plaintiff to sandblast fourteen foot high plates, standing on a ladder. Plaintiff protested that the ladder was not sturdy enough to support Plaintiff while grit was blasted out at 120 psi. Blackwell threatened that McKercher would put Plaintiff Hooker on night shift if Plaintiff did not comply.

635. Plaintiff left early from work after blasting the lower half of the plate because of a family emergency.

636. In addition to being harassed on the job, Plaintiff Hooker was also subjected to discrimination on his break time, while eating. From May 2014 to approximately August 2014, Plaintiff ate lunch on a regular basis with other African-American workers in a conference room near the Supervisors' offices. In or around August of 2014, while he was eating, McKercher, a Superintendent, walked in and stated "you all can't eat in here anymore." All of the African-American workers gathered their food and belongings, and prepared to leave. Though Ronald

Blackburn continued eating, and made no move to leave McKercher gave no indication that he wanted Blackburn out. Plaintiffs and the other African-American workers began leaving, slowly, checking to see whether McKercher would ask the one white NNI employee using the facility to vacate. He did not.

Retaliation

637. Plaintiff filed his claims against NNI on February 11, 2015.

638. On March 17, 2015, Plaintiff received a write-up enumerating a laundry list of dates on which he was allegedly tardy or absent, most of which were dates he was not late, was given an excused absence, or was not absent. His coworkers, including Jeff (late on 3/18/15, 3/19/15, and 3/25/15), Lauren (late on 3/19/15, 3/25/15, 3/26/15, absent 3/27/15), Alex (late on 3/18/15, 3/20/15, 3/21/15, 3/24/15, 3/27/15), Cody (late on 3/18/15, 3/19/15, 3/20/15, 3/21/15 & 3/24/15) were not disciplined similarly.

639. The write-up was given in retaliation for Plaintiff's bringing a lawsuit against NNI.

Racially Disparate Pay, Promotion, Overtime and Training

640. Plaintiff was hired at a wage rate of \$13/hour in 2010.

641. Though Plaintiff Hooker applied to work as a fitter, and was hired as a fitter candidate, Jaffeux assigned him to work as a helper for painters. Plaintiff Hooker was never given the opportunity to train to be a fitter.

642. While Plaintiff was relegated to assisting painters, white workers, such as Daniel Cummings, a server at Burger King prior to coming to NNI, were given expedited training in fitting work; within six-months to a year of being hired, Cummings was working as a make-up

fitting supervisor.

643. Plaintiff was told that he would receive evaluations and raises at thirty day intervals for the first one hundred twenty days of his employment. Though Jaffeux indicated to Plaintiff that he was doing a good job, Plaintiff did not receive *any* evaluations or raises in his first year of employment.

644. In his second year of work, Plaintiff was given a \$2/hour raise.

645. Approximately six-months into his second year of work, Plaintiff was assigned to sandblasting. He was not given a raise, even though his job duties increased. In his third year of work, again Plaintiff received no raise but was transferred to the tool room and given tool room attendant duties in addition to sandblasting duties.

646. In his fourth year, Plaintiff's tool room attendant duties increased when new requirements compelled workers to turn in their tools on a daily basis, so that Plaintiff had to distribute tools more often. Additionally, he was given computer access and required to write requisitions for supplies throughout NNI. Plaintiff was also required to manage the rigging cage.

647. Despite the ever increasing scope of work and responsibilities, NNI paid Plaintiff \$18.25/hour while paying his white coworker, Mathew Graham, who did the same work, \$20/hour.

648. On a regular basis, Plaintiff asked Jaffeux for crane training and forklift training, but he did not receive it. However, Cummings, a white recent hire, received forklift and crane training within months of being hired. Cummings was also trained as a fitter, the job position for which Plaintiff had initially applied.

649. Plaintiff made his requests for crane training and forklift training to McKercher,

Slaughter and Stewart. He also asked the supervisors for rigging training and tool room training. He never received it, although other white workers such as Cummings received the training.

Ian Blow

Racially Hostile Work Environment

650. Ian Blow is an African-American male. He started at NNI in March of 2010 with over a decade of welding experience including, experience in TIG, MIG, stick, and Flux-cored welding.

651. For the first year of his employment at NNI and intermittently throughout, Jackson supervised Plaintiff.

652. Wayne Jackson racially harassed Plaintiff on a daily basis, referring to Plaintiff and his African American coworkers as “you people,” saying, “I’m down with you guys,” and reminding Plaintiff Blow, “my grandfather had lots of black women.”

653. While making harassing statements, Jackson treated Plaintiff and his African American coworkers like pack animals. When Plaintiff took a moment's rest from work, Jackson would say, “if you need to take a break, grab a broom,” or “are you on the clock, you need to act like you’re on the clock and get back to work.” In comparison, white workers on Jackson’s crew were able to stand around in groups talking to one another and drinking coffee throughout the day. Some Caucasian workers, like Ricky Penrod, slept during work hours, positioned conspicuously in front of the supervisors' office.

654. In or around November of 2011, Plaintiff Blow was transferred to the Swiss Log, but could not truly get away from Jackson. He continued to hear about Jackson's demeaning treatment of African Americans. For example, Plaintiff Crawford came to Plaintiff in tears

saying, “do you know what [Wayne Jackson] just called me. He called me a bitch.”

655. During the winter of 2012, Riley supervised Blow. Riley constantly mocked African-American workers, and caricatured their speech and mannerisms. He walked, grabbing his crotch and limping forward. He made statements to Plaintiff, such as, “I’m a brother too,” and “y’all guys real cool, how the brother’s are.” Riley stereotyped African Americans, remarking “when I go get my drugs I get it from the black guys, “ and “the black guys get the good stuff.”

656. Riley frequently made demeaning remarks about the welding skills of African Americans, for example saying to Plaintiff Blow, “we’re master welders, the brothers ain’t got nothing on us.” To Plaintiff Crawford, he remarked that the training area she had built herself was something “African.” Mr. Blow knew that any time he was working for or around Riley, he was likely to hear offensive racial comments.

657. Plaintiff Riley also made offensive sexual remarks about African American women to Plaintiff. By way of example only, he stated, “black girls have big butts” and on one occasion, attempted to grab Plaintiff Crawford's butt.

658. In or around 2012, Jaffeux supervised Plaintiff for approximately 9 months. At least twice a month, Jaffeux demeaned Plaintiff and other African Americans, telling them that they were “dumb.”

659. Plaintiff Blow was assigned to the Pin Jig project. With the exception of a few workers, all of the workers on the Pin Jig project were African American. Plaintiff Blow was assigned to the project for approximately a year and was required to work in below freezing temperatures, rainy conditions and hot, humid weather.

660. While at NNI, Plaintiff was surrounded by an openly racist culture. Supervisors

displayed confederate flags on their cars. White workers, following the example of their supervisors, also displayed the confederate flag on their cars and affixed confederate flag stickers to their toolboxes. Plaintiff was deeply offended by the racist symbols, which he saw daily.

Racially Disparate Pay, Promotion, Overtime and Training

661. Plaintiff Blow is currently paid \$25/hour.

662. Blow has approximately 15 years of welding experience, a high school diploma and among other qualifications, holds a TIG welding qualification. Top pay for a TIG welder is at least \$28.50/hour at NNI.

663. Caucasian workers with less experience or qualifications than Plaintiff earn more than he does. Josh Vanderbury, a welder with twelve years of welding experience and fewer welding qualifications currently makes \$28.50 an hour, without a high school diploma or GED.

664. Since Plaintiff has been employed with NNI, he has consistently received smaller raises than less qualified white coworkers. Caucasian workers, such as Clinton Combs, and Josh Vanderbury regularly received \$1.50/hour to \$2.00/hour raises, while Plaintiff's raises have never exceeded \$1/hour.

665. In May 2014, Plaintiff was made a permanent employee and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned in January 2013 that it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Don Pierce

Racially Hostile Work Environment

666. Plaintiff Don Pierce is an African-American male. He began working at NNI in April 2010 as a fitter, and continued until April 2011. He had approximately 6 years of experience working as a fitter prior to coming to NNI.

667. Throughout the time Plaintiff Pierce was employed at NNI, supervisors and coworkers harassed Plaintiff calling him “bitch,” “stupid,” and making derogatory comments about his appearance. Even after he complained about racist comments made by his coworkers, Plaintiff continued to be subjected to racial harassment.

668. Jackson supervised Plaintiff from April to July 2010. While supervising Plaintiff, Jackson made frequent derogatory comments about African-Americans, to Plaintiff and his African-American coworkers. He implied that African-American workers were inferior to whites, saying, “if I have two or three more Daniels [an inexperienced white laborer], I won’t need you anymore.”

669. In addition to demeaning Plaintiff and his African-American coworkers, Jackson regularly punished African Americans workers more harshly than whites. For example, when Plaintiff had a verbal argument with his white coworker, Jeff Dudley, which was amicably resolved, Jackson reduced Plaintiff's pay by a \$1/hour, but not Dudley's. In comparison, on another occasion, when Plaintiff observed two white workers engaged in a *physical* altercation which was reported to Jackson, nothing was done.

670. In or around July 2010, Plaintiff was rotated to night shift, under Doug (LNU).

671. During night shift, Plaintiff and his African-American coworkers were assigned to the Pin Jig project, working outdoors in freezing temperatures, and rain.

672. Plaintiff heard offensive racial statements two to three times a week while on

night shift. On one occasion, while Plaintiff was walking to his car, a white worker began yelling, "Fifty cent! Fifty cent!" [an African-American rapper, who survived 9 gun-shots] and commented to Plaintiff, "you're all do-ragged up and everything." Offended that the worker was calling him a thug, Plaintiff responded, "I'd appreciate if you either call me Don or Pierce, but you should call me by my name." The worker laughed and remarked, "I do what I want to do, what are you gonna do about it?"

673. The same day, Plaintiff complained to Doug about the racist remarks, who referred Plaintiff to Wade Lynn, the superintendent. Lynn assured Plaintiff that he would take care of the matter. Later that day, Lynn returned Plaintiff's call, saying that this was not the first time someone had complained about the individual.

674. Gilbert LNU, a Hispanic coworker, had confided in Plaintiff that the same white coworker who had referred to Plaintiff as "fifty cent" had regularly directed offensive racist remarks at Gilbert, saying, "yo quiero Taco Bell!" and calling Gilbert names like "Mexican" or "Puerto Rican." Though Gilbert had reported the derogatory treatment, the white worker had not been disciplined to Gilbert's knowledge.

675. In or around October of 2010, Plaintiff was transferred to Jaffeux's supervision. On a daily basis, Jaffeux belittled Plaintiff, calling him a "bitch," and "stupid."

676. Tom Castle, a white coworker, also made incessant racial remarks on a weekly basis in Plaintiff's presence. His jokes generally ended with a punch line implying that African-Americans were untrustworthy.

677. The first time Plaintiff heard Castle make a racist remark, Plaintiff complained to Jaffeux, who responded, "quit crying like a little bitch and do your job." He made "cry baby"

gestures at Plaintiff.

678. Castle continued to make racist comments to Plaintiff and other coworkers, including Plaintiffs Reggie Holliman and Kershaw.

679. Plaintiffs Reggie Holliman and Kershaw stated to Plaintiff that they also complained about Castle's offensive racial remarks. Castle's racist remarks continued after their complaints.

680. Throughout Plaintiff's employment at NNI, workers frequently and openly wore confederate flag t-shirts and bandannas to work, and were never reprimanded, signaling to Plaintiff NNI's tacit endorsement of the symbol of racial oppression.

Racially Disparate Pay, Promotion, Overtime and Training

681. At the time he was hired, with six years of experience fitting, NNI paid Plaintiff \$18/hour.

682. Around the same time Plaintiff was hired, Cummings, a white worker, was also hired at \$18/hour. Unlike Plaintiff Pierce, he had no prior experience fitting and had previously worked at Burger King.

683. Jackson and Jaffeux offered Cummings opportunities not given to Plaintiff and his African-American coworkers. Cummings was placed on jobs that furthered his professional development and supervisors gave him multiple opportunities to enroll in welding and fitting classes at HII.

684. In or around January of 2011, when a permanent position opened at NNI, Jaffeux told Pierce that NNI was hiring Cummings that Pierce should not apply.

685. By April 2011, Cummings held a permanent position at NNI with health benefits,

a 401k and paid vacation time, and he was made a make-up supervisor.

Retaliation and Constructive Discharge

686. After Plaintiff's complaint to Jaffeux about Castle's racist jokes, Jaffeux' hostility intensified, the derogatory comments increased, and he transferred Plaintiff to another role. Instead of fitting, Plaintiff was placed on jobs moving materials, painting, sweeping, taking trash out, and performing safety checks.

687. In the last months of his employment, Plaintiff was transferred to work under a machinist supervisor, Calvin LNU. He was again assigned tasks normally assigned to unskilled laborers, including cleaning and sweeping.

688. NNI constructively discharged Plaintiff Pierce, intentionally increasing the harassment and retaliation, forcing Plaintiff to resign in April 2011.

Richard Bostic

Racially Hostile Work Environment

689. Plaintiff Richard Bostic is an African American male. He began working at NNI through the labor leasing company, CTR, as a welder in June or July 2011 and continued until December 2012. He had approximately 25 years of experience welding, including MIG, stick, and Flux-cored welding.

690. Over the course of his employment, Angle and Jackson supervised Plaintiff.

691. Kevin Angle supervised Plaintiff for the first year of his employment at NNI.

692. Throughout his employment at NNI, Plaintiff BosticBostic heard white workers use racist language on a daily basis. Workers joked about the dark complexion of African-Americans and used terms like "boy," and "you people," referring to African-Americans. During

a training exercise, a white worker asked an African-American worker to smile so he could see him. This kind of “joke” was typical of the racist remarks Bostic heard regularly.

693. Supervisors encouraged the discriminatory treatment of African-Americans. For example, white workers were allowed to have coffee from the supervisors lounge, but African-American workers were not.

694. Tommy Hines, the supervisor responsible for administering welding tests, regularly referred to African-American workers as “you people,” for example saying, “you people grind the same way all the time.”

695. Sometime between February and June of 2012, Plaintiff Bostic was transferred to Jackson's supervision.

696. As with so many others, Jackson treated Bostic and other African-American workers in a demeaning manner, bullied them, referred to them as “boy,” and treated them like work-horses.

697. Jackson constantly monitored Plaintiff and expected him to work around the clock. Even during hold time, when workers are required to wait for quality assurance inspectors to check their work, Jackson ordered Plaintiff, “if you ain’t doing nothing, grab a broom.”

698. While Plaintiff and his African-American coworkers were over-worked, white workers were able to take regular breaks, socialize with supervisors and smoke in groups.

699. Jackson expected Plaintiff and his African-American coworkers to produce more than their white coworkers. When Plaintiff would produce 15 to 20 high quality welds in a day, Jackson would tell him, “if you can do this many, you can do twice as many.” In comparison, white welders with over fifteen years of experience were expected to finish two or three welds a

day.

700. Jackson regularly assigned Plaintiff Bostic work outside of his job duties, telling him to collect metal scraps behind the main building and put them into dumpsters, or lay down 50 to 60 heavy steel plates in the muddy grounds outside the main building.

701. Jackson promoted Jay (LNU), a newly-hired white worker whose only experience in the trades was as a carpenter, to a leadman position to supervise Plaintiff. Two to three times a day, Jay made derogatory racial remarks to Plaintiff. He referred to Plaintiff as “boy,” for example, saying “boy get a broom” or “boy clean this.” Plaintiff responded to Jay and said, “I’m twice your age, don’t call me a boy anymore.”

702. In Jackson’s presence, Jay called Plaintiff a “dumb ass n*gger.” Jackson laughed.

703. When Jay ordered Plaintiff “to get your mother fucking ass back to work,” Plaintiff Bostic complained to Scott Jones that Jay was swearing at him and supervisors should be held to a higher standard. Instead of reprimanding Jay, Jones defended Jay and berated Bostic.

704. Plaintiff also observed Jackson bullying Bostic's African-American coworkers. For example, Jackson harassed Plaintiff Gordon for six to eight months over his welding signature, “black ice.” On at least three occasions that Plaintiff Bostic observed, Jackson called Plaintiff Gordon a hoodlum and a gangster and Jackson personally removed Plaintiff Gordon's ink signatures from Plaintiff Gordon's welds. Eventually, Jackson forced Plaintiff Gordon to apologize at a morning meeting for his welding signature.

705. Nothing was said to white workers who used welding signatures, such as “snowflake,” and they were not required to make public apologies.

706. On another occasion, Plaintiff Gordon was reading the Bible at a hold point,

waiting for quality inspectors to finish inspecting his welds. Jackson told him to put the Bible away.

707. Jackson had a reputation for firing African Americans. For example, Plaintiff observed Jackson fire Plaintiff Chisman for bumping his forklift into a ladder, a minor infraction for which a white worker would not be fired. In fact, on another occasion, when a white worker drove into a wall with a forklift, damaging the wall, he was not even reprimanded.

708. Throughout the time Plaintiff was at NNI, he observed workers wearing confederate flag t-shirts and caps, and cars with confederate flag license plates parked in the same parking lots as supervisors' cars.

Discriminatory Failure to Accommodate Due to Race

709. Plaintiff was diagnosed with Type II diabetes in the fall of 2011. Type II diabetes affects an individual's ability to metabolize sugar and substantially impairs the major life activity of the endocrine function.

710. Plaintiff notified Angle, his then supervisor, of his diagnosis and requested the accommodation of breaks at two to three hour intervals to eat so he could maintain his blood sugar levels.

711. Angle accommodated Plaintiff and did not indicate that he had any issues with Plaintiff's work performance.

712. When Jackson began supervising Bostic, Plaintiff informed Jackson of his condition. Jackson responded that he "didn't care," and told Plaintiff "do the job." Over the ten hour days that Plaintiff Bostic was working, Jackson did not allow Plaintiff to take additional meal breaks for his condition and hassled Plaintiff to work non-stop.

713. Within a month's time, Plaintiff brought in a doctor's note proving his condition and reflecting the meal break requirement. David Swain, a member of the safety committee, distributed the doctor's note to Jackson, Angle and Jones at a safety meeting.

714. Even after receiving the note, Jackson continued to hound Plaintiff and prevented him from taking meal breaks. Plaintiff Bostic was forced to hide and eat when he could, which was not with the frequency his condition required.

715. T.H., a Caucasian employee, was permitted to take regular breaks for his diabetes.

Retaliation and Constructive Discharge

716. In or around December of 2012, Plaintiff went into work and experienced the daily harassment Plaintiff had come to expect from Jackson. When handing out work assignments, Jackson skipped over Plaintiff, who had to ask Jackson for an assignment. Jackson taunted, "you don't want to work or something." NNI constructively discharged Bostic, by intentionally increasing the harassment and retaliation, with the intent to force plaintiff's resignation, which he tendered in December 2012.

717. The day of his separation, Bostic went to his labor leasing agency, CTR, where he met with the president, Sina Calupitan, and turned in his resignation from NNI. He reiterated the past complaints he had made to CTR from February 2012 onward that Jackson had not accommodated his medical issues, and that he was regularly harassed.

718. Later that day, police officers swarmed Plaintiff's home, which they searched. Bostic was arrested in front of his teenage son.

719. Plaintiff learned from a coworker that Ricky Wade, a white worker at NNI, had spread an utterly false rumor that Plaintiff was planning on coming to NNI with an AK 47;

Plaintiff had not even seen Wade that day.

720. Police held Plaintiff overnight for a psychiatric evaluation. The next day all charges against Plaintiff were dropped.

721. Plaintiff experienced significant emotional distress from NNI's defamatory charges.

722. Plaintiff had difficulty finding work after the claims NNI made against him.

723. Plaintiff continues to experience adverse consequences from NNI's false allegations. For example, on January 7, 2015, Plaintiff accepted an \$80,000/year job offer through Ameriforce to work at Huntington Ingalls Incorporated. The job offer was rescinded after Huntington Ingalls Incorporated denied access to its premises.

Theo Pierce

Racially Hostile Work Environment

724. Plaintiff Theo Pierce is an African American male. He was employed at NNI from February of 2014 to April of 2014 as a laborer and from April of 2014 to December 23, 2014 as a sandblaster.

725. Daniel Clark, Clem Stewart, and Robert Slaughter supervised Plaintiff during his employment at NNI.

726. At NNI, Plaintiff was surrounded by a culture of racism. Supervisors regularly made racial remarks to Plaintiff. For example, Donald Harwick, a supervisor, would comment to Plaintiff, "I know you're not tired, boy." Plaintiff's coworkers also frequently used the terms "boy" and "y'all" to refer to African-Americans. Workers openly wore confederate flag t-shirts and drove cars emblazoned with the confederate flag.

727. Doug Todd, the night shift superintendent, harassed Plaintiff regularly because of his race.

728. He expected Plaintiff and his African American co-workers to work constantly. If he noticed Plaintiff taking a moment's break, he reported it to Plaintiff's supervisor, Daniel Clark.

729. When Plaintiff was drinking a soda outdoors where white workers were taking smoke breaks and socializing, Plaintiff was reprimanded that "management is watching you," yet nothing was said to Plaintiff's white coworkers. This disparity in treatment was completely typical of the discrimination Plaintiff experienced.

730. When Doug Todd was nearby, Clark demeaned African-Americans and monitored African-American employees more closely than Caucasian workers. He gave last minutes jobs to African American workers and expected them to work harder than whites.

731. In or around April 2014, Robert Slaughter began supervising Plaintiff.

732. Slaughter regularly harassed Plaintiff Pierce and treated him differently because of his race.

733. Slaughter said nothing when he heard Chris Oswald's frequent comments to Plaintiff like, "I know you're not tired, you're a big old strong boy," and or "you're early for a change," reflecting Oswald's stereotypical beliefs that African-Americans are lazy or late.

734. Slaughter regularly threatened Plaintiff with early discharge or reduced pay if he tried to take a moment's rest, but allowed Caucasians to text on their cell phones, take smoke and snack breaks, and stand around talking in groups. On a daily basis, Christopher Barefoot, who sat near the entrance of the main building, texted on his phone throughout the workday in full view of supervisors. Similarly, on a daily basis, Oswald took frequent breaks and was used his cell

phone to text during work hours.

735. Slaughter noticed Caucasian workers on their phones, but ignored them. In fact, on occasion, Slaughter mentioned to Plaintiff that he had seen Oswalt and Barefoot on their phones. In comparison, when Plaintiff was using his phone before his shift had even started, Slaughter ordered, “put your phone up.”

736. When Caucasian workers were late to work, nothing was said; when Plaintiff Pierce was late, even when he called beforehand, Slaughter made sure that the lateness was noted.

737. In or around April of 2013, Slaughter assigned Plaintiff to sandblast without any training.

738. Sandblasting is physically demanding and dangerous work. NNI distributed sandblasting work in a discriminatory manner, assigning African-Americans to sandblast more often than whites.

739. Plaintiff was required to sandblast in below freezing temperatures. Worse, he was required to work in windy conditions, which interfered with his ability to control the direction of the sandblast hose.

740. When Plaintiff's coworker was injured, Pierce was told to continue to sandblast on his own for two weeks. Sandblasting without a partner who could monitor the safety of the environment placed Plaintiff at significant risk.

741. On at least four occasions, Plaintiff complained to Slaughter that sandblasting work was too dangerous and he wanted to be transferred off the job. Each time, Slaughter denied his request.

742. In or around September 30, 2014, Plaintiff suffered a back injury from the stress of sandblasting. Plaintiff notified Slaughter. Showing no concern for his safety, Slaughter told him to get back to work and “be careful.” Plaintiff took several days off work to recover from his injury.

743. In or around November 14, 2014, Plaintiff re-injured his back. When Plaintiff complained again about his injured back, Slaughter finally allowed Plaintiff to go to the hospital. At the hospital, Slaughter informed Plaintiff that his injury would only be covered by worker's compensation if his urine test came back clean.

Racially Disparate Discipline And Termination

744. Anxious to find out that his workman's compensation claim was covered, Plaintiff repeatedly asked Slaughter if his urine analysis had been received.

745. On or about December 14, 2014, Plaintiff was informed that Slaughter had received the analysis two weeks previously, but had failed to notify Plaintiff.

746. Pierce met with Slaughter at his office and asked Slaughter for the test results. Slaughter revealed for the first time that he was not authorized to disclose the results. Frustrated that Slaughter had initially refused to acknowledge his injury, then had withheld for weeks that he had received the test results, and then would not tell him the results, Plaintiff left, saying, “screw you.”

747. The next day, Plaintiff was called into a meeting with Doug Todd, Robert Slaughter and Human Resources personnel where he was told he was suspended for his “attitude.” African-American workers were consistently subjected to discipline for actions which were tolerated from white workers.

748. On the heels of his suspension, on December 23, 2014, two days before Christmas Day, Plaintiff was fired for the same conduct for which he had just been suspended, “insubordination,” though white workers, acting similarly, were not fired.

Racially Disparate Pay, Promotion, Overtime and Training

749. When he was hired, Plaintiff Pierce was earning \$12/hour as a laborer. He received an initial raise of \$0.50 in the first two weeks of work. Though he was promised a raise with every satisfactory evaluation at 30, 60, 90, and 120 day intervals, Plaintiff received none of these promised raises.

750. Joey Gibson, a white laborer, was hired soon after Plaintiff in March 2014. After his raises, he was making \$15.50/hour, \$3/hour more than Plaintiff. Gibson had no prior experience working in the trades.

751. Chris (LNU), a white laborer, was also hired soon after Plaintiff in or around March of 2014. He was hired at \$13/hour, one dollar more than Plaintiff at hire. Chris had no prior experience working in the trades.

752. Jeff (LNU), a white laborer, was hired in or around March of 2014. His starting rate was also above Plaintiff's, \$13/hour. Like Chris, Jeff had no prior experience in the trades, and was hired out of high school.

753. When NNI transitioned Plaintiff into the Sandblaster position, he was not given a raise.

754. In February 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions.

Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

755. Plaintiff has regularly requested training opportunities. In April or May of 2014, Plaintiff asked Slaughter if he could be trained to use a JLG lift. Slaughter responded that there was not enough interest for a class. Later, in July or August of 2014, Plaintiff learned that NNI had organized a JLG class, and his coworker Chris Barefoot was enrolled. Despite knowing of Pierce's interest, Plaintiff was not included in the training.

756. In or around May 2014, when NNI added a punch press to its equipment, Chris Barefoot, a Caucasian employee was brought in from NNI's Oyster Point building to learn the machine. Although Pierce was interested in the training, NNI never gave him the opportunity to apply for training.

Roderick Waddell, Sr.

Racially Hostile Work Environment

757. Roderick Waddell, Sr. is an African-American male. He began at NNI in October 2011 as a Mechanical Technician. Plaintiff Waddell Sr.'s primary job duty is sandblasting.

758. Jaffeux, Jackson, McKercher, Slaughter, and Stewart have supervised Plaintiff during his employment at NNI.

759. Jaffeux supervised Plaintiff for his first year of employment. Plaintiff's primary duties under Jaffeux were painting and sandblasting.

760. Jaffeux's approach to African-American workers made plain his racially-biased disdain for them. He regularly used "boy" and "ya'll" to refer to African Americans, saying to Plaintiff and his African American coworkers, "you boys need to hurry up and finish that" or

“ya’ll need to get back to work;” on one occasion, when Plaintiff’s African-American coworker Earl (LNU) heard this he remarked, “call me by name, I’m not a boy.”

761. In contrast to his laid-back approach to white workers, on a daily basis, Jaffeux hounded Plaintiff and his African American coworkers to work faster saying, “it shouldn’t take you that long.” When Plaintiff took a moment’s break to use the bathroom, Jaffeux would grill him, asking, “where have you been?”

762. When assigning Plaintiff to painting work, Jaffeux disregarded basic safety requirements applicable to all workers. Plaintiff was tasked with handling toxic paints, prolonged exposure to which caused nerve damage, without a gas mask and respirator.

763. On a weekly basis, Plaintiff Waddell, Sr. would ask to be fitted for a gas mask and respirator; Jaffeux regularly responded that when a class opened up he would send Plaintiff for training. Plaintiff, however, later learned that gas mask and respirator certification did not require training, only that Jaffeux fill out paperwork for Plaintiff to be fitted for the mask.

764. Materials to be painted and sandblasted needed to be transported outdoors from within the NNI building on forklifts. To expedite work, and to safely assist forklift drivers, on a weekly basis, Plaintiff requested forklift driving training.

765. Also weekly, he requested sandblasting training to ensure that he was sandblasting in the safest manner possible, given how dangerous the work is.

766. Despite Plaintiff’s repeated requests, he was not offered forklift or sandblasting training; workers hired after Plaintiff, such as Daniel Cummings, a white worker, received forklift training while Jaffeux insisted that class space was not available for Plaintiff.

767. In temperatures under forty degrees, Jaffeux found indoor work for white workers,

but insisted that Plaintiff and his African-American co-workers paint outdoors. Plaintiff regularly asked Jaffeux if the painting could be completed indoors because space was available. Jaffeux refused.

768. McKercher supervised Waddell, Sr. after Jaffeux.

769. Like Jaffeux, McKercher's treatment of African-Americans reflected his racial biases. He constantly monitored Plaintiff and his African-American coworkers, commenting whenever they took bathroom breaks, "you've been in the bathroom for ten minutes," even if Plaintiff was gone only for five minutes. Unlike for their white counterparts, McKercher tracked Plaintiff and his African-American coworkers' whereabouts, asking, "why aren't you in your area" or "why're you here, you should be blasting."

770. Plaintiff and his African-American coworkers regularly faced ridiculous accusations of sleeping on the job. When white coworkers, such as Ricky Penrod, openly slept on the job, nothing was said.

771. McKercher callously exposed Plaintiff and his African-American coworkers to more physically demanding and dangerous conditions than white workers. By way of example only, Plaintiff was asked to use a crane without crane training. He was required to carry heavy objects on his own or assist a forklift driver without forklift training. He was never given sandblasting training though his primary job duty was to sandblast. On cold days, white workers were able to work indoors, but Plaintiff was told, "if its over 35 degrees you need to be blasting."

772. Plaintiff's already dangerous job of sandblasting was made even more dangerous when McKercher reduced the sandblasting shift to just Plaintiff Waddell, Sr. Sandblasting work was done outdoors in a covered tent, out of the view of most workers. When Plaintiff had to

work without a partner he had no support in an emergency.

773. On weekends, Jackson also supervised Plaintiff from approximately October to December 2013.

774. Jackson belittled and harassed African American workers on a daily basis. By way of example only, if African-American workers took a moment's rest, Jackson remarked "you need to dock yourself accordingly." He monitored African-American workers' bathroom breaks asking, "why is it taking so long?" He assigned Plaintiff and his African-American coworkers to menial tasks, such as sweeping, taking stickers off materials, and cleaning-up. If a job required workers to be on their knees, such as grinding work, it was given to African-Americans. In comparison, white workers were given jobs that advanced their professional growth, such as blueprint reading or assisting skilled-workers.

775. Jackson pressured Plaintiff and his African-American coworkers to work constantly. For example, Brandon Walker, an African-American laborer, regularly received twice the work others were given; and if he wasn't able to finish, Jackson would say, "you should've gotten it done, there's no excuses."

776. Plaintiff Waddell, Sr. also observed Jackson constantly harassing Plaintiff Bostic, an African-American diabetic. When Plaintiff Bostic would ask for a break to eat to keep his sugar levels balanced, Jackson would say, "you don't need to take a break" or "you need to get back to work."

777. In cold temperatures, white workers were assigned indoor work while African-Americans worked outdoors.

778. In or around 2014, Clem Stewart began supervising Plaintiff. Waddell, Sr.

continued to ask Stewart, as he had his previous supervisors, for forklift, sandblasting and crane training. Though the training would have helped Plaintiff transport materials to be sandblasted more conveniently and make his work safer, Stewart did not nominate Plaintiff for training classes.

779. In fact, multiple times a week, Stewart mocked Plaintiff for his lack of training. For example, when Plaintiff asked that sandblasting materials be transported outside, Stewart would respond, “go ahead and do it yourself” and laugh, knowing that Plaintiff didn’t have the relevant training. Alternatively, he would tease Plaintiff by telling him to do work with a crane or a forklift and then laugh.

780. Stewart disregarded the safety complaints of Plaintiff and his African-American coworkers. When Tourke Hooker, an African-American sandblaster, complained to Stewart that sandblasting while standing on a ladder was too dangerous and he did not feel comfortable doing it, Stewart threatened to have him transferred to night shift.

781. When Plaintiff complained that the production expectations placed on day shift by management were onerous, and increased the likelihood of injury, Stewart continued to pressure Plaintiff to meet the unrealistic expectations. Even after Plaintiff pointed out that the night shift was not doing its share of the sandblasting, and Plaintiff was picking up their slack, Stewart responded, “I can’t worry about night shift.”

782. Stewart constantly hassled Plaintiff, asking him, “why’re you taking so long,” and asking others, “how much has Waddell blasted?” He regularly asked Plaintiff’s coworker, Alex Blackwell, a white worker, to check up on Plaintiff’s work. If Plaintiff took a bathroom break, Stewart asked, “why’re you going to the bathroom” or asked others, “where is Waddell?” When

temperatures were below freezing, if Plaintiff would come inside to warm up, Stewart would send Plaintiff back outside, telling him, “I told you that we have to have three plates done.”

783. At morning meetings, Stewart made absurd threats to African-Americans, like, “if I catch you sleeping, I’m going to have to fire you on the spot,” while Ricky Penrod, a white worker, would sit snoring right in front of Stewart.

784. Emboldened by their supervisors' racial harassment of Plaintiff Waddell, Sr. white workers also harassed Plaintiff. Multiple times a week, Matthew Graham, a white worker, referred to Plaintiff Waddell, Sr. and Plaintiff Hooker as the “brown posse.” Graham wrote notes to Plaintiff Hooker referring to him as a “black ass bitch.” Though Plaintiff Waddell, Sr. observed Graham constantly harass Plaintiff Hooker in close proximity to supervisors, including Doug McKercher, but nothing was done.

785. In October of 2014, Brandon Walker shared a video Levy Cluts had sent him. In it ugly lyrics calling African-Americans “n*ggers” and “spooks” and encouraging the mass killing of African-Americans played to a sing-song tune, white families square-danced along merrily. Plaintiff Waddell, Sr. was shocked that Cluts felt comfortable enough to circulate such filth.

786. From May 2014 to approximately August 2014, Plaintiff ate lunch on a regular basis with other African-American workers in a room near supervisors' offices. In or around August 2014, McKercher told the African-American workers that they could no longer eat in the room. A white worker would also eat in the room with Plaintiff and others, and he continued to be able to eat in the room after Plaintiff and his coworkers were kicked out.

Racially Disparate Pay, Promotion, Overtime and Training

787. Plaintiff was hired at a \$13/hour in October of 2011 though Jaffeux had initially

represented to Plaintiff that he would be earning \$14/hour. When Plaintiff brought the disparity between his quoted rate and signing rate to the attention of Beverly (LNU) in Human Resources, she assured him that his future opportunity for raises would more than compensate for the shortfall.

788. Plaintiff was told that he would receive evaluations and raises at thirty day intervals for the first one hundred twenty days of his employment. He was only evaluated once in February of 2012 and received a raise of \$1.50.

789. Plaintiff knew that his white coworkers received timely evaluations and raises.

790. White workers were paid more than Plaintiff when doing the same work Plaintiff did. Nick (LNU), a white painter, who did the same type of work as Plaintiff did in his first year of work, made \$18/hour, \$3.50/hour more than Plaintiff. Sandblasters at Huntington Ingalls Incorporated were paid between \$20/hour to \$25/hour.

791. On a weekly basis, Plaintiff asked Jaffeux for sandblasting training and forklift training, which he never received.

792. Daniel Cummings, a recent hire, was able to receive forklift training in June of 2012, but not Plaintiff.

793. In or around 2013, Plaintiff saw that a number of workers were receiving Crane training. He asked McKercher to be added to the training list. Though multiple white workers hired after Plaintiff including Alex Blackwell, John Bundy, Lauren (LNU) received the training, Plaintiff was excluded.

794. In or around 2013, Plaintiff asked for tugger training, seeing a number of other workers receiving the training, including Alex Blackwell and Robert Slaughter. Once again,

Plaintiff was excluded from the training.

795. Plaintiff's supervisors McKercher and Slaughter pressured Plaintiff to work with cranes without crane training.

796. In 2014, Plaintiff continued to ask Stewart for crane, forklift and tugger training but failed to receive it.

797. While training was withheld from Plaintiff, he saw white workers receive training and progress to supervisor level positions. Daniel Cummings, for example, was hired as a laborer, and now serves as a supervisor at NNI. He was enrolled in multiple training classes and was pushed forward in his career. In comparison, Plaintiff was not given any training.

798. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Chris Payton

Racially Hostile Work Environment

799. Plaintiff Chris Payton is an African-American male. He began working at NNI in January of 2014 as a laborer.

800. Over the course of Plaintiff's employment, Daniel Clark, Mike Debord, Brian Penny, Donald Harwick, Jimmy Leary and Gilrod have supervised Plaintiff.

801. Plaintiff Payton started his first job in the trades with naive enthusiasm, hoping to work hard, gain training and progress. Over his first year working at NNI, he slowly came to

realize that the culture of racism permeated all aspects of work at NNI, into management. Daniel Harwick, Plaintiff's supervisor, regularly referred to African-American workers as n*ggers. Multiple African-American workers had reported complaining about Harwick's racist language, including Sincere Booker but nothing had changed in response to the complaints. In fact, Sincere Booker was subjected to worse treatment, and Donald Harwick was able to continue calling African-Americans racist terms. In July 2014, Plaintiff Payton approached Donald Harwick with a question about work, and saw him sitting with Quesinberry, laughing, with a rope entwined around his wrists. As Plaintiff Payton neared, Harwick unravelled the rope and dangled it in front of Plaintiff. Already realizing that it was a noose, but hoping that it wasn't, Plaintiff Payton asked, "What's that for." Harwick responded, "you know." Upset at Harwick's audacity, but knowing that his complaints to management would not be addressed, he walked away, shocked.

802. Racism surrounded Plaintiff Payton from the time he started at NNI. Doug Todd, the night shift superintendent, made offensive racial remarks whenever Plaintiff was in his vicinity. Hearing remarks like "you bangin' a gang?" from Superintendent Doug Todd was hardly unusual. On multiple occasions, Plaintiff also heard Todd refer to Plaintiff [REDACTED] Joyner's dreadlocks as "shitlocks." He made comments about Plaintiff's baggy pants, saying "you people' always sagging your pants," and "in your culture brothers sag their pants."

803. Todd's constantly monitored Plaintiff and his African-American coworkers, and made harassing remarks to Plaintiff, for example saying, "get your ass to work," or "that's why your fat ass can't get no work done because you want a snack."

804. It was typical for Todd, when when workers were smoking outside, to single out

Plaintiff and his African-American coworkers, Plaintiff Wiltz and Plaintiff Joyner, saying, “them people’s always outside smoking, you need to get back to work.”

805. Similarly, when Plaintiff waited for Quality Control inspections, Todd ordered Plaintiff to sweep; other white workers, also waiting for inspections, were able to socialize.

806. At a luncheon, Payton got up to get food and, though others were also getting food, Todd singled him out, commenting “you’re so damn hungry you couldn’t wait until I finished talking.”

807. Daniel Clark, an African-American employee, supervised Plaintiff during the initial four months of his employment and again in January of 2015.

808. Especially when Todd was present, Clark spoke to Plaintiff and his African-American coworkers in a belittling manner. By way of example only, on a daily basis, Clark made comments about Plaintiff’s baggy pants, such as, “pull your fucking pants up, I don’t want to see your fucking ass” and negative comments about his workmanship, for example, “Payton is too shitty of a welder to go down [to a job in South Carolina]; he needs to get his shit together.”

809. Under pressure by Todd, Clark regularly compelled African-Americans to work longer hours than their white co-workers. For example, when other white workers were leaving early at 12:30 AM, Clark advised Payton, “I think you need to finish that job.” On another occasion, at 12:20 AM Clark assigned work to Plaintiff at the last minute when other white workers were getting ready to leave; Clark ordered, “go fit this up.” When Plaintiff indicated that the shift was almost over, Clark instructed him to stay.

810. Plaintiff overheard Todd tell Clark to supervise African-American workers

closely. For example, Todd mentioned to Clark, “when [Plaintiff █████ Joyner] comes in send him to my office, give him work but if he takes a break write him up and send him to my office.”

811. In Todd's presence, Clark pushed African-American workers to work harder. Though Plaintiff's coworkers Plaintiff Wiltz and Dennis (LNU) were regularly expected to weld approximately 20 welds a night, when Todd was present, Clark expected them to weld double the amount.

812. Mike Debord began supervising Plaintiff in or around May of 2014.

813. When Plaintiff was transferred to Debord's supervision, Plaintiff had hopes of becoming a fitter or welder. He spoke to Debord about his ambitions and Debord stated that he would sponsor his enrollment into welding school.

814. Soon afterwards, it became clear to Plaintiff that NNI only had room for white workers to progress. Debord enrolled Joey Gibson, a white laborer, with no prior experience working in the trades, into welding school but overlooked Plaintiff.

815. Debord also assigned preferable work to white laborers relative to African-American laborers. Gibson and other white laborers regularly received jobs assisting fitters and welders, work that helped them grow professionally. In comparison, Plaintiff was assigned low-skilled work, such as sweeping all day, or picking up metal scraps from the yard.

816. Debord also favored white workers when distributing overtime work; only if Joey Gibson, Plaintiff's white coworker, and Jeff (LNU), a white laborer, refused an overtime opportunity were he and his African-American coworkers asked to work overtime.

817. Under Debord, white workers were able to take time-off without having the absence counted against them. For example, Gibson was able to take Saturdays off from work to

attend welding school. Nick Whitehurst was able to take multiple Saturdays off from work. When Plaintiff asked for a Saturday off to care for his sick daughter, he was told that the time off would be counted against his attendance record.

818. Plaintiff was transferred to Brian Penny's supervision when Debord was promoted to Superintendent. Plaintiff hoped to progress and gain access to welding school under Penny.

819. Working under Penny, however, as a result of Penny's obvious racial animus, he realized he would have no chance to progress towards his goals. Penny referred to African Americans as "you people," driving them to work like bulls. He pressured Plaintiff and his African American coworkers to work constantly without break. He timed Plaintiff's bathroom breaks and monitored Plaintiff and his African-American coworkers' smoke breaks. When he saw African-American workers smoking in groups, he would tell them to "break it up and get back to work," while ignoring groups of white workers smoking together. Even during natural breakpoints, Plaintiff was required to work; for example, when Payton was waiting for a quality inspector, Plaintiff was told to sweep, though white workers sat around talking.

820. In or around July 2014, Harwick supervised Plaintiff for a short time before Plaintiff began attending welding school. In or around August 2014, Harwick separated from the company and Plaintiff was asked to fill-in as make-up supervisor. Without an increase in pay, Plaintiff distributed work packages, and assisted workers with their job assignments.

821. Gilrod supervised Plaintiff for approximately a month after Harwick's separation.

822. While under Gilrod's supervision, Plaintiff finally obtained his welding certification. Following up on prior complaints he had made to others that he had not received a raise despite his increase in qualifications from a laborer to a welder, he complained to Human

Resources about the lack of raise.

823. An older African-American worker warned Payton that “things would not be the same” if he complained. He was right. Soon after complaining to HR, NNI demoted Plaintiff from his welding responsibilities, claiming he had performed a weld badly. Even after Payton showed Todd paperwork proving the “bad” weld was not one of his, Todd refused to give him back welding responsibilities saying he “didn’t care whose weld it was,” and relegated him to sweeping and picking up metal scraps.

824. Gilrod confided to Plaintiff that he believed Payton was a pretty good welder but that upper management did not want Plaintiff to progress.

825. In January of 2015, Clark began supervising Plaintiff again.

826. Plaintiff complained to Clark that NNI had been discriminating against him, giving him menial work, closing opportunities to him that were open to whites, and failing to pay him at the same rates at which whites were compensated. He indicated that he was looking into bringing a lawsuit against NNI.

827. Following their conversation, Clark singled him out and gave him more work than others. For example, Plaintiff was asked to shoot 586 studs into a metal plate, a job that does not build a worker’s skill and requires a worker to constantly bend over. Shooting half a plate full of studs is hard work, and Plaintiff pushed himself beyond his limits shooting an entire plate in one night. The next night, Clark did not rotate the work as he normally would, but expected Plaintiff to shoot a second plate full of studs, saying “I don’t give a fuck if you’re tired or not you’re going to get your ass up there and shoot that damn plate.” Meanwhile, Plaintiff’s white coworkers were able to sit around doing little.

828. In another typical scenario, Plaintiff was assisting a white fitter, Chris Tranthum, in fitting work and alternating root welding with Tranthum's fitting. Tranthum was able to take rest breaks while Plaintiff was working but Clark expected Plaintiff to sweep while Tranthum was fitting.

829. In addition to pushing Plaintiff to work harder than his white coworkers, Clark also expected him to work longer hours. Plaintiff was regularly assigned tasks within the final minutes of his shift, and expected to work through the night to complete them.

830. Plaintiff has been subjected to other offensive racial treatment. By way of example only, he was told that African-American workers could not take breaks in a conference room in which white workers regularly sat. On a daily basis, Plaintiff heard Clark refer to African-American workers as “n*ggers,” without reprimand. Plaintiff also observed workers openly wearing confederate flag t-shirts and parking their cars with confederate flags displayed in the NNI parking lot, also used by supervisors.

Retaliation/Retaliatory Termination

831. In or around January 2015, Plaintiff confided to Clark that he was being racially harassed and subjected to race-based mistreatment and would be filing a lawsuit against NNI for racial harassment and discrimination.

832. Following Plaintiff's conversation with Clark, the harassment escalated.

833. Clark increased Plaintiff's workload to approximately three times that of his coworkers. For example, Plaintiff was required to weld up to 100 joints a night, work that takes four days to complete for an average worker, and in addition, to perform tack-welding work.

834. He was required to tack-weld when his fitter coworker was taking a break. When

his fitter coworker was doing fitting work, Payton was required to weld on other jobs.

835. Plaintiff's white coworkers were given significantly less work than Plaintiff. For instance, Gibson was given ten holes to weld while Plaintiff was given ten times that amount.

836. In or around February of 2015, Quesinberry, the make-up supervisor, indicated that workers would be able to leave early at 12:30 AM. As Plaintiff Payton prepared to leave, Clark remarked to Plaintiff, "what are you doing, you stay." When Plaintiff Payton responded that Quesinberry had given him permission to leave, Clark held Plaintiff back.

837. Clark harassed Plaintiff Payton daily after learning that Plaintiff Payton would be bringing a lawsuit against NNI.

838. The harassment worsened after Plaintiff Payton brought a lawsuit against NNI on February 11, 2015. Though Plaintiff Payton had never been written up previously, when he used the bathroom on February 26, 2015, his supervisors followed him into the bathroom, periodically peered into his stall while he was attempting to defecate, and wrote him up when he used the bathroom for longer than ten minutes. In comparison to Plaintiff's treatment, white workers were rarely monitored when they used the bathroom, and sometimes would sit in stalls for hours making the stalls unavailable for others to use.

839. Plaintiff's coworkers also harassed Plaintiff for bringing the lawsuit against NNI. For example, after building wooden cross-shaped structures, two workers, who were jointly employed by Steel America and NNI, commented to one another, "this is where we should hang the people suing NNI." [REDACTED] Joyner, Plaintiff's coworker, was also present while the two workers made threatening remarks.

840. On or around April 12, 2015, Artis (LNU), an African-African coworker, punched

Plaintiff in the face without provocation over the use of equipment. Plaintiff did not engage in the physical altercation. Plaintiff [REDACTED] Joyner and Plaintiff Dennis Smith were both present at the scene of the altercation and witnessed Artis punching Plaintiff Payton and Plaintiff's cool-headed lack of response.

841. Plaintiff and Artis [last name unknown] were interviewed by Human Resources. Though Plaintiff had walked away from Artis' punch, the Human Resources Department saw this as an opportunity for firing Plaintiff for bringing a lawsuit against NNI. After brainstorming ideas on how to fire Plaintiff, the next day, the Human Resources Department personnel met with Plaintiff and confiscated his phone. Pursuant to a policy allowing the confiscation of an NNI workers' phone if the worker is suspected of taking pictures, NNI decided to justify a full search of Plaintiff's phone without Plaintiff's consent. Plaintiff's personal emails, personal text messages, and personal Facebook posts were all searched; NNI took the liberty of granting itself greater authority to search through Plaintiff's personal life than a police officer would have received under an authorized warrant.

842. NNI justified its retaliatory termination of Plaintiff based on a Facebook picture of NNI to which Plaintiff was "tagged,"² but which Plaintiff had not taken; because Plaintiff was pictured in the photograph it was obvious that he had not taken the picture.

843. NNI used the Facebook picture as a pretext to fire Plaintiff. Other workers who had been seen by supervisors taking pictures at NNI, were merely told to put their cell phones away. For example, Supervisor Clark witnessed Nick Whitehurst, Plaintiff's coworker, taking pictures at NNI, and merely told him to put his phone away.

² "Tagging" is a mechanism by which an individual posting a picture can designate the names of the individuals in a picture and link the picture to their Facebook pages.

844. Whitehurst was not written up, let alone fired. In fact, Whitehurst posted this picture to Instagram, among others, without reprimand.



845. Though Artis (LNU), the individual who punched Plaintiff in the face, was initially fired, he was rehired within weeks of his termination.

Racially Disparate Pay, Promotion, Overtime and Training

846. Plaintiff Payton began working at NNI in January of 2014 as a laborer. Though Scott Jones initially represented to Plaintiff that his starting wage rate would be \$13/hour, Plaintiff was hired at \$10/hour. Only when Plaintiff brought the obvious disparity to Jones' attention was he given a \$2/hour increase.

847. After 120 days of working NNI, Plaintiff was making \$14/hour.

848. Joey Gibson, a white laborer, was hired soon after Plaintiff, in March of 2014. After his raises, he was making \$15.50/hour, more than Plaintiff. Gibson had no prior experience working in the trades.

849. Chris (LNU), a white laborer, was also hired shortly after Plaintiff, in or around March of 2014. He was hired at \$13/hour. Chris had no prior experience working in the trades.

850. Jeff (LNU), a white laborer, was hired in or around March of 2014. His starting wage rate was \$13/hour. Jeff, hired out of high school, had no prior experience in the trades.

851. In or around May of 2014, Plaintiff expressed his interest in going to welding school to Mike Debord. Gibson was sent to welding school but not Plaintiff.

852. Within two months at NNI, Chris (LNU) was promoted to machinist, earning \$17/hour.

853. Jeff was also promoted to work in the Metal Shack, and was given a raise, to \$17/hour.

854. All three white workers hired after Plaintiff were given training opportunities within months of being hired; in comparison, Payton continued working as a laborer, despite his requests for training.

855. In or around June or July of 2014, Plaintiff was finally accepted into welding school.

856. In August 2014 when Plaintiff returned from welding school, he asked Todd, Harwick, McKercher, and Jones about a raise. Jones represented to Plaintiff that he would receive a raise after obtaining his NNI welding qualifications.

857. In October 2014, when Plaintiff inquired about his raise again, after passing his NNI welding qualification tests, Jones backtracked telling Payton his raise would be included in his yearly evaluation on January 2015.

858. Though Plaintiff did not receive a raise, his job duties were increased to encompass welding work.

859. Nicholas Whitehurst, a white worker, hired into an entry level welding position

out of high school, was making \$17/hour in comparison to Plaintiff's \$14/hour.

860. After months of working as a welder, and filling in as a make-up supervisor for Donald Harwick after Harwick's departure, Plaintiff complained to Human Resources that he was not being properly compensated for his work.

861. After his complaint, upper management pressured Gilrod, his supervisor, to relegate him to menial work, sweeping and picking up metal scraps.

862. In January 2015, Plaintiff complained to Clark that he felt he was being discriminated against because he was not being compensated for his welding training.

863. In response to his complaint, Clark singled Plaintiff out, giving him more work than others and expecting him to work longer hours.

864. In the second or third week of January 2015, Plaintiff received his annual evaluation. The evaluation did not include a raise or a change in title. When Plaintiff met with Todd to ask about his raise, Todd stated, "that doesn't sound important to me" and then remarked, "I've been talking to people all day and I don't have any time for people's bullshit griefs, whatever you want to talk about these evaluations I don't want to hear it."

865. In March of 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Dennis Smith

Racially Hostile Work Environment

866. Plaintiff Dennis Smith is an African American male. He was employed at NNI from January or February of 2011 to March of 2015. He had approximately twenty years of welding experience when he began at NNI and possessed qualifications in TIG welding, MIG welding, Flux-cored welding, and naval and commercial certifications.

867. Over the course of Plaintiff's employment Jackson, Scott, Leary and Clark have supervised Plaintiff.

868. Racism surrounded Plaintiff at NNI. Plaintiff regularly heard workers use the term "n*gger" to refer to African American workers. In NNI's bathroom stalls, racist writings marred the walls including statements such as, "niggers go home," easily observable by supervisors. Multiple workers wore confederate flag t-shirts and bandannas, including "Big Jim," Timmy (LNU), Mike William, and Ted (LNU). Cars in the NNI parking lot had Confederate flags displayed on their license plates and Confederate flag bumper stickers.

869. Supervisors encouraged the blatantly offensive behavior, for example, Steel America Supervisor Ted (LNU) regularly rolled up his shirt-sleeves to show off his Confederate flag tattoo.

870. Though multiple workers complained about employees' racially offensive t-shirts, such as one worker's t-shirt depicting an African-African submerged head first underwater, his feet tied by a rope, held by a white individual sitting on a boat, employees were able to continue to wear the t-shirts.

871. Jackson supervised Smith for his first six months at NNI and regularly humiliated and demeaned Plaintiff and his African American coworkers.

On a daily basis, Jackson threatened to fire Plaintiff and his African-American coworkers.

He made frequent derogatory comments at Plaintiff calling him “stupid” and “slow.” Jackson’s animus towards African-American workers was common knowledge.

872. The majority of the work given to Plaintiff Smith and his African-American coworkers had them on their knees, or crawling through tight spaces.

873. In addition to working African-Americans like animals, Jackson also singled-out African-American workers for bullying. For example, Jackson frequently threatened Plaintiff Smith’s job to drive him to work faster. Plaintiff Chisman, an accomplished welder, was regularly assigned menial tasks outside of his job duties. Jackson nitpicked Plaintiff Chisman’s work and when Chisman accidentally bumped something with his forklift he was fired. When a white worker on Jackson’s crew damaged a wall with a forklift, in comparison, the incident went unaddressed.

874. Jackson also relentlessly hassled Plaintiff Richard Bostic, an African-American diabetic, for taking meal breaks. No matter how hard Plaintiff Bostic worked, it was never enough for Jackson.

875. In comparison to African-American workers, white workers were able to take breaks at their leisure, talk to one another, and receive jobs that groomed them for promotions.

876. When African-American workers asked for training, Jackson denied it. African American workers, like Plaintiff Chesson asked, “why do the the white guys get to go to welding school and why can’t I?” Jackson responded, “don’t worry about what others are doing.”

877. Ruel Scott supervised Plaintiff for approximately a year. On a daily basis, he made condescending remarks to Plaintiff and his African-American coworkers. He approached African-American workers with stereotypical assumptions, treating them like they were lazy and

dumb.

878. When Scott assigned work, he regularly assigned less strenuous jobs to white workers, such as seated work,, while Plaintiff and his African-American coworkers were assigned kneeling or standing jobs.

879. Scott frequently socialized with white workers and spoke with them in a friendly manner, but kept his distance from African-American workers, not even greeting them.

880. After being supervised by Scott, Plaintiff was transferred to Oyster point for six months under Jimmy Leary's supervision. While at Oyster Point, Plaintiff continued to be racially harassed, and heard racial slurs regularly including whites referring to African-Americans as “n*ggers.” Workers, following the lead of openly racist supervisors, also acted on their racist beliefs. For example,Dye, a tool room attendant, distributed old and worn tools to Plaintiff Smith and his African-American coworkers, saving the new, state-of-the-art tools for white workers.

881. After six months at Oyster Point, Mike Schultz, a supervisor, coerced Plaintiff to transfer to night-shift. Instead of asking workers to volunteer to transfer to night shift, as HII did, NNI overwhelmingly selected African-American workers to transfer to the night shift from the day shift. Plaintiff Smith protested that he was trying to get custody of his daughter and needed to be on day shift, but he was told to “find another job” if he could not transfer to nights. Having no choice, Plaintiff made the transfer.

882. Daniel Clark supervised Plaintiff on night shift at Enterprise Drive. While on night shift Plaintiff continued to hear racially offensive language regularly. By way of example only, Mike (LNU), an NNI make-up supervisor, and Ted (LNU), a Steel America supervisor,

while talking to one another, said “I’m gonna kick that nigger in the ass.” On another occasion, Plaintiff overheard Mike say to Ted , “I’m gonna slap that motherfucking nigger on the side of his head.” Plaintiff also heard Ted, tell a Mexican worker, “you Mexicano, you ain’t got no business over here, motherfucking idiot.”

883. Plaintiff and his African-American coworkers were driven to work non-stop on the night shift. For example, when safety protocol required workers to clear an area because a crane was lifting a 17,000 lb load, Doug Todd, the night shift superintendent, would criticize Plaintiff and his African American coworkers for being away from their work stations saying, “I can’t believe y’all out here,” encouraging them to violate safety protocol and continue working in the crane's presence, at the risk of their lives.

884. When workers would prepare to take their lunch break, Todd would remark to Plaintiff and his African-American coworkers, “I don’t know what the fuck ya’ll think you’re doing here,” signaling them to get back to work.

885. While Todd constantly harassed Plaintiff and his African-American coworkers about getting back to work, white workers were able to use their phones and socialize. For example, Justin (LNU), was regularly on the phone during work hours; even so, he was selected as a make-up supervisor.

886. Under pressure by Todd to monitor African American workers more closely, Clark, an African American supervisor, also bore down on Plaintiff and his African American coworkers. . For example, when Todd ordered Clark to “watch [REDACTED] Joyner, an African American worker,] and keep your eyes on him.” Clark began hassling Joyner relentlessly, telling him to “hurry up” at least twice a week, though Plaintiff Joyner was a diligent worker. In

comparison, Chis (LNU), a white coworker who Clark also supervised, came late to work regularly and missed multiple days of work per month, but was not reprimanded by Clark or Todd.

887. In addition to taking leisurely breaks and coming late to work, white workers, when they came in, were also able to leave work earlier than African-American workers. Ted regularly threatened African-American workers with write-ups if they asked to go home an hour early to avoid traffic, but allowed white workers to leave early from work often. .

888. While working under Clark, Plaintiff began experiencing numbness in his hands and wrists and was diagnosed with carpal tunnel syndrome. Plaintiff had been extremely productive over the years he had been at NNI, and regularly averaged 35 to 40 welds a day, where most workers average 15 to 20 welds.

889. Plaintiff complained multiple times to Clark about having injured his hands. Clark referred Plaintiff to Todd.

890. In or around September or October of 2014, Plaintiff complained to Todd about his carpal tunnel injury. Todd stated that though Plaintiff had been working for NNI for the past three years, the carpal tunnel injury was not exclusively caused by Plaintiff's work at NNI and therefore, was not covered by NNI workman's compensation. Plaintiff stated that he had not experienced pain and numbness in his hands prior to doing grinding work for NNI, but Todd indicated that NNI would not fill out workers' compensation paperwork on Plaintiff's behalf. Plaintiff later learned that a white fitter at NNI, who had been there for approximately a year and had prior work experience, was awarded workers' compensation coverage for his carpal tunnel syndrome. Other white workers, such as Quesinberry, a fitter, were also able to receive

accommodation for their injuries, and paid time off, though Plaintiff was not.

891. Throughout the time Plaintiff worked at NNI, African-Americans are given more physically demanding work than white workers. For example, Plaintiff never saw a white employee grinding off backing strips, an arduous task. When there was a choice of work, white workers were given the less labor intensive tasks.

892. When work became slack, African American workers were given jobs outside of their job duties, such as picking up cigarette butts, but white workers continued to receive jobs within their job's scope.

893. Throughout the time Plaintiff has worked at NNI, he has observed racially offensive symbols openly displayed at NNI. In bathroom stalls used by NNI supervisors, Plaintiff has observed racist statements including, "niggers go home." Additionally, by way of example only, in or around 2012, Plaintiff regularly observed a white worker wearing a t-shirt depicting an African-American submerged in the water upside down with his feet tied by a rope, held by a white worker sitting in a boat. Plaintiff has seen multiple workers wearing confederate flag t-shirts and bandannas, including "Big Jim," Timmy (LNU), Mike William, and Ted (LNU). He has seen multiple cars with the confederate flag on them. Ted, a Steel America supervisor, regularly rolls up the sleeves of his t-shirt to proudly display his confederate flag tattoo.

Retaliation

894. On or around April 12, 2015, Plaintiff Smith witnessed Artis (LNU) punch Plaintiff Chris Payton in the face. Upset that Artis could punch a worker unprovoked, Plaintiff pantomimed defending himself against a similar punch, and accidentally made contact with a "Ey," a coworker, injuring "Ey." "Ey" reported the injury to Mike Schultz, acknowledging that it

was an accident. Plaintiff, also injured, left the premises to seek care.

895. Due to the severity of Plaintiff's injuries, Plaintiff was required to undergo surgery and missed approximately a week of work.

896. Plaintiff called Supervisor Michael Schultz the night of the injury and updated him that he would not be able to come into work because of his serious injury. Plaintiff continued to keep Schultz updated as to the extent of his injury and treatment.

897. Upon returning he was terminated. Plaintiff had never received a write up prior to his firing. Except for medical reasons, Plaintiff had never missed work, and had worked at least \$40,000 in overtime hours the previous year. Plaintiff begged for his job, repeating that he had hit "Ey" by accident. NNI management did not relent, and fired Plaintiff.

898. Plaintiff learned subsequently that Artis, the individual who punched Plaintiff Chris Payton in the face, was rehired to work at NNI.

Racially Disparate Pay, Promotion, Overtime and Training

899. When Plaintiff Smith began working for NNI in 2011 he had over twenty years of experience as a welder. He started at NNI at \$24/hour. Though he was promised raises at intervals of thirty days for his first 120 days at NNI, he only received two raises. When he was hired as a permanent worker, after three years working for NNI, his pay rate was increased to \$27.50/hour.

900. At hire, Angle, Plaintiff's supervisor, indicated that top pay at NNI was \$32/hour. He stated to Plaintiff that "we can't pay you that right now, but when the job picks up we will be able to."

901. In or around January 2014, a white worker, Joe LNU, was hired at \$26/hour,

\$2/hour more than what Plaintiff received at hire. Joe had no prior experience in the trades and had been a cook before working at NNI. Joe received training from an African-American worker, James LNU, who was making \$24/hour at the time. Subsequently, Joe replaced James at his job.

902. Throughout the time Plaintiff has worked at NNI, overtime work has been distributed in a discriminatory manner. For example, in or around January of 2014, Plaintiff was assigned to a job with overtime work. He never missed a day of work, was among the most productive workers on the job, and was never late. Even so, he was replaced by Chokes, a newly hired white worker. Plaintiff complained to Doug Todd, asking why he had been taken off the job despite his good work ethic and job performance, Todd responded, “sometimes work has its ups and downs.”

903. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

904. Throughout the time Plaintiff has been at NNI, African American workers have been evaluated in a discriminatory manner. For example, on January 2015, Plaintiff was given a 2 out of 5 on his evaluation, and heard that other African-American workers were also given low ratings on their evaluations. He received the same rating as individuals who had missed multiple days of work. Given his above average productivity, the fact that he has never been absent from work, and regularly volunteers to work holidays, including this past Christmas, Plaintiff was shocked at his low evaluation rating.

Derek Cross

Racially Hostile Work Environment

905. Plaintiff Derek Cross, Sr. is an African-American male. He began at NNI in February of 2013 as a welder. At hire, Plaintiff Cross, Sr. had 17 to 18 years of welding experience, including experience in MIG, stick and Flux-cored welding.

906. Mike Schultz, Wayne Jackson, Jimmy Leary and Doug Todd have supervised Plaintiff.

907. A culture of racism surrounded Plaintiff at NNI. In the NNI bathroom, Plaintiff saw racially offensive graffiti, such as “No Niggers In-house,” which epitomized the attitude there.

908. Workers regularly wore clothing depicting the confederate flag and drove cars emblazoned with the confederate flag.

909. Mike Schultz, Plaintiff's supervisor, used racial language with Plaintiff, referring to African-Americans as “ya’ll,” saying for example, “what ya’ll doing.” He called Plaintiff and his African-American coworker, “Carolina boys.”

910. Mike Schultz monitored Plaintiff and his African-American co-workers more closely than their white counterparts. While white workers on Schultz's crew were talking to each other and socializing, Schultz constantly dropped by Plaintiff's work area to ensure that he was working.

911. For a short time, approximately March to June 2014, Jimmy Leary supervised Plaintiff. a majority black crew received the most arduous tasks, such as grinding work. Whenever Richard Talley, a superintendent, was in Leary's vicinity, Leary rushed Plaintiff and

his African American co-workers and told them they were taking too long. Opportunities for TIG welding were given to other crews instead of Leary's crew.

912. From approximately June 2014 to January 2015, Jackson supervised Plaintiff. Jackson frequently made racially derogatory comments to Plaintiff saying, "I know you people like to hang together," and "I know you people like to go out together."

913. Jackson drove African-American workers to work harder than whites. For example, in a typical scenario, Jackson assigned a two-person job to Plaintiff with no help. When Plaintiff was taking an authorized break, and the job was not at the point Jackson hoped it would be, Jackson exclaimed to Plaintiff, "you've been breaking all day, get back to work."

914. In another typical scenario, Jackson saw Plaintiff coming back from lunch and remarked, "I've been waiting for you for thirty minutes." He said nothing to Ricky Burke, Plaintiff's white coworker, who had taken a longer lunch than authorized.

915. Even when Plaintiff exchanged a simple morning greeting with a coworker, Jackson looked at Plaintiff disapprovingly. In comparison, white workers were able to take breaks at their leisure and talk to one another openly.

916. Throughout the time Plaintiff has been at NNI, Plaintiff witnessed white workers, including supervisors, on an almost daily basis make racist remarks to Plaintiff Alfred Joyner. For example, Floyd Roach, a white coworker, remarked to Joyner while holding a rigger sling "don't worry, I'm not going to hang you today." Roach also called Joyner a chipmunk. Steve Sheg, a make up supervisor, made frequent derogatory about Plaintiff Joyner, calling him "dumb" and "stupid." Another white worker said to Joyner, "you are the rodent who is eating everyone's food."

917. It is common knowledge that Plaintiff Joyner is regularly and egregiously harassed, but nothing has been done to address it.

918. Plaintiff observed Benny (LNU) wearing a racially offensive t-shirt captioned “redneck fishing,” depicting a white man fishing using a black man tied by his feet as a fishing pole. He continued to wear it regularly up until 2013.

Racially Disparate Pay, Promotion, Overtime and Training

919. Plaintiff was hired at a \$23/hour in February 2013. He had almost two decades of experience welding, including MIG, TIG, Flux-cored and stick welding experience. Plaintiff was promised evaluations and raises at 30 day intervals for the first 120 days, but only received two evaluations and raises, culminating in a total of \$26/hour.

920. White Workers less qualified than he, such as Josh Vanderbury, a welder with ten years of experience and no TIG qualifications, were paid over \$28/hour in 2014.

921. Additionally white workers were promoted at a faster rate than Plaintiff. When in January 2015 Cross asked when he would be able to transition from Mechanical Technician II to Mechanical Technician III, Jackson indicated that it would be another year. Plaintiff has already been a Mechanical Technician II for the past three years.

922. In comparison, Ricky Burke, a white welder with less experience than Plaintiff was offered a Mechanical Technician III position within a year's time of working at NNI. Mark Yamarellow, a white welder with less experience than Plaintiff, was hired a week after Plaintiff and promoted to Mechanical Technician III in 2014.

923. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued

for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Ernest Chesson

Racially Hostile Work Environment

924. Plaintiff Ernest Chesson began at NNI as a Welder and Fitter in September 2012. At hire, Plaintiff Chesson had approximately 22 years of experience including in TIG, MIG, Flux-Cored, and stick welding.

925. During his first year, Jackson supervised Plaintiff. Kevin Angle subsequently supervised Plaintiff Chesson.

926. Racism surrounded Plaintiff at NNI. Workers regularly wore hats and t-shirts depicting the confederate flag. They parked cars emblazoned with the confederate flag in NNI's parking lot. The KKK was a topic of discussion at work.

927. Jackson discriminated against Plaintiff because of his race. His treatment of Plaintiff reflected his stereotypical belief that African Americans are lazy. Whenever Plaintiff or an African American worker was away from his work station, gathering tools or taking a bathroom break, Jackson called the worker lazy, complaining that African-American workers were never around when Jackson was ready to work. White workers were regularly able to take breaks and sit around with little work.

928. While Jackson expected Plaintiff and his African-American coworkers to work constantly, white workers were given tasks like "shadowing" Jackson, to "learn."

929. Jackson frequently nitpicked Plaintiff's work, writing him up for clearing his

welding goggles when they became foggy and withholding a raise because Plaintiff did not have his earplugs on. Other white workers, such as John (LNU), regularly walked around without earplugs or goggles, were not reprimanded, and upon information and belief were not deprived of raises as a result.

930. Jackson kept Plaintiff from progressing in his work, initially telling him that he would be able to receive his welding qualifications, tests that would allow Plaintiff to use his welding skills. Later Jackson insisted he would have to change over to night shift to receive the welding qualifications.

931. When Plaintiff asked the night shift supervisor, Scott, why Jackson was requiring him to move to night shift to receive his welding qualifications, Scott laughed and said that Jackson did not want Plaintiff on his crew.

932. Even after Plaintiff transferred to Kevin Angle's crew and received his welding qualifications (more than a year after he began at NNI), Chesson continued to experience discrimination. Plaintiff was regularly assigned to do low-skilled sweeping work, which white workers were rarely made to do. Specialty work was given exclusively to white workers, including workers that Plaintiff himself had trained, such as Clinton Combs.

933. Though he was told that no overtime work was available, Plaintiff observed white workers regularly receiving overtime, including Ben Vogel, Jesse Smith, Josh Smith, Christian Watson, and James Nicks.

934. Scott, NNI's night shift supervisor, regularly substituted for Angle as Plaintiff's supervisor. Whenever Scott supervised Plaintiff, he belittled Plaintiff and African American workers, calling them "lazy" and telling them they could not weld.

935. Scott knew his behavior was racist, admitting on multiple occasions in front of Chesson that “I shouldn’t say the things I say to certain [black] people...someone might call the hotline on me.” Even knowing it was wrong, he continued to demean African-American workers.

936. When Plaintiff and two African American coworkers were filling out paperwork, Scott laughed at Chesson's co-workers for needing assistance. He came over to Plaintiff, saying “what’s your problem, these two have problems, you gotta have a problem.”

937. Derision was Scott's standard way of talking to African American workers. When Chesson did not know the correct codes for vertical and horizontal welds, Scott laughed at Plaintiff.

938. Emboldened by their supervisors' example, Plaintiff's white coworkers also made racially offensive remarks towards Plaintiff and his African American coworkers. By way of example only, James Nicks, a white worker regularly assigned to be lead man, commented that African-American workers were lazy. Mark Yanarellow remarked, “he can’t read,” when James Nicks handed a newspaper to Tim Body, an African-American worker. In Plaintiff's presence, James Nicks endorsed the KKK's right to recruit and hold meetings in Newport News, Virginia.

Constructive Discharge

939. Plaintiff was forced to resign on April 6, 2015, after continuing to experience a hostile work environment despite bringing a lawsuit in February 11, 2015.

940. After filing the lawsuit, Plaintiff heard that multiple Plaintiffs had received unfounded write-ups including Plaintiff Hooker and Plaintiff Nichols. NNI conducted no formal trainings to alleviate the ongoing racial harassment. Plaintiff's supervisors continued to treat African-American workers differently than white workers. Plaintiff continued to be paid at a rate

between \$1/hour to \$3/hour less than his white coworkers.

941. Observing that NNI was unwilling to address the ongoing racial harassment, Plaintiff was forced to resign.

Racially Disparate Pay, Promotion, Overtime and Training

942. Plaintiff was hired as a fitter, at \$23/hour, in September 2012. He had twenty-two years of experience welding and fitting. He received three raises in his first four months at NNI, to \$26/hour. Since then, Plaintiff has received no raises.

943. White workers with less experience and qualifications than Plaintiff Chesson are paid more than he is. Josh Vanderbury, a welder with twelve years of experience, no TIG welding qualifications and no high school diploma or GED, makes \$28.50/hour.

944. Since Plaintiff has been employed with NNI, he has consistently received smaller raises than less qualified white coworkers. Caucasian workers, such as Clinton Combs, and Josh Vanderbury regularly receive \$1.50/hour to \$2.00/hour raises. The only raises Plaintiff received never exceeded \$1/hour.

945. Plaintiff has consistently requested forklift and crane training, which NNI has denied, though less qualified white employees have received the training. In 2013, Plaintiff requested fork lift training from Scott Jones. A year later, he inquired into the possibility of receiving forklift training from Angle. Although Chesson was not trained, Clinton Combs, a less experienced white worker, received training after Plaintiff had requested it.

946. In November or December of 2014, Plaintiff asked Doug (LNU), a safety worker, for training in operating 40 ton cranes. Though Plaintiff was not given an opportunity to train, Rocky (LNU), a less experienced white coworker, was able to receive the requested training.

947. Plaintiff has also been consistently denied overlooked overtime work, while other white workers including Ben Vogel, Jesse Smith, Josh Smith, Christian Watson, and James Nicks, have been able to receive overtime work.

948. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Landon Pierce

Racially Hostile Work Environment

949. Plaintiff Landon Pierce is an African-American male. He has been employed at NNI since November 2013. At hire, Plaintiff had 29 years of experience, including experience in Flux-cored, TIG, MIG, and stick welding.

950. Jeff Riley, Tom Jaffeux, Mike Debord and Jim Leary have supervised Plaintiff Pierce over the course of Plaintiff's employment.

951. Racism permeated Plaintiff's work environment at NNI. Supervisors, such as Tommy Hines, drove cars displaying the confederate flag. Workers display the confederate flag on their hats, caps, and t-shirts. Racially offensive t-shirts, such as widely viewed and frequently worn "Redneck Fishing" shirt, depicted an African-American tied by his feet upside down in the water, with a white man using him to fish.

952. Jeff Riley had a well-deserved reputation for sexually harassing African American women. Approximately monthly, Chesson heard Riley make sexual remarks at a heavy set

African American woman, saying, by way of example, “you don’t know how to hold your mouth right,” and touching her in front of other workers. Plaintiff was offended by the sexual harassment.

953. In or around 2011, Jaffeux and Riley supervised Plaintiff on the Pin Jig project. With the exception of a small fraction of white workers, only African-American workers were assigned to the project. The African American workers on the Pin Jig project were required to work in cold, often freezing temperatures, without adequate heat as well as hot, humid temperatures without adequate ventilation.

954. When Plaintiff complained to Riley, asking to be rotated so he could warm up on a cold day, Riley responded, “these guys [working inside] have already done their time and they’ve earned their spot in the warmth.” In fact, white workers were rarely placed on the Pin Jig project, or on difficult work outdoors, and, when assigned to work outdoors, they were rotated out quickly.

955. On a daily basis, Jaffeux discriminated against African-American workers, treating African-American welders like laborers. No matter their qualifications, they were the first workers to be handed a broom. Instead of chairs provided to Caucasian workers, Plaintiff and other African Americans were given buckets to sit on. When African Americans complained, they were further penalized: Jaffeux told them, “why don’t you stand instead.”

956. When Plaintiff was wearing knee pads, Roger Simmons, a white supervisor, stated to Plaintiff in Jaffeux’s presence, “I see you’re getting trained to work underneath the desk.” Jaffeux laughed.

957. Steve Shag, a make-up supervisor who was promoted to supervisor, also racially

harassed Plaintiff frequently. He made racial remarks regularly. By way of example only, Shag said “I’m going to watch y’all kind cuz y’all kind steal,” referred to African-Americans as “ya’ll kind,” “ghetto,” and “one of them,” and called Plaintiff a “crackhead bitch,” and “Charlie Brown.”

958. Richard Tally, an NNI superintendent, encouraged the discriminatory treatment of African-Americans. Pierce observed Plaintiff Ron Valentine when he was drinking his coffee prior to starting work along with other Caucasian workers. Tally approached Valentine, asking, “when are you going back to work.” The other Caucasian workers were not approached or questioned. Regularly Caucasian workers were able to drink coffee throughout the day, whereas African-American workers were harassed and kept from drinking coffee.

959. In 2011 or 2012, Plaintiff having observed the confederate flag on Tommy Hines' license plate, which was observable by NNI supervisors, Plaintiff approached Hines, asking him “what are you going to do about the sign if somebody complains to you that they are offended by the flag,” Hines responded, “this sign is not coming off.” On another occasion, when Alfred Joyner and Pierce were given an assignment to work on the passageway doors, Hines approached the two saying, “maybe the two of you all can make one fitter.”

960. Even after Plaintiff was transferred to NNI's building located in Oyster Point, in or around 2012 from NNI's “main building” on Enterprise Drive, he continued to experience racial harassment.

961. Floyd, Plaintiff's coworker, routinely made racially harassing remarks, for example, referring to Plaintiff and saying, “I see you have one of them that can read and weld,” and “don't pay him no attention, he's just babbling at the mouth.” Additionally, he engaged in

racially harassing conduct towards other African-American workers including towards Plaintiff Alfred Joyner, whom he was particularly intent on humiliating. He gestured to imply that Joyner is slow and illiterate, and held a penny in front of his face, telling Joyner to fetch it.

962. Other Caucasian co-workers also harassed Plaintiff Alfred Joyner in Plaintiff Pierce's vicinity, including one worker who took Joyner's hard hat and placed it on the crane boom, near the ceiling, so he could not reach it.

963. Tool room attendant, Dye, rationed and withheld supplies from Plaintiff and other African Americans. For example, when Plaintiff asked him for tissues used by welders to lay on the floor while welding, Dye asks how many are needed, while giving Caucasian welders an entire box with no questions asked. Dye provides state-of-the-art tools to white workers, withholding them from African-American workers, who instead receive old and worn tools.

964. In an environment where African-Americans are always under threat of being fired while the infractions of Caucasian workers are ignored, Plaintiff perceives that he and other African Americans are on "thin ice." For example, when Caucasian workers sleep on the job they are left undisturbed, but African Americans are threatened with firing if they are not seen constantly working.

Racially Disparate Pay, Promotion, Overtime and Training

965. At hire, Plaintiff had almost three decades of experience, including MIG, TIG, Flux-cored and stick welding experience. In January 2014, after working for NNI for three years, Plaintiff Pierce was earning \$24.10/hour.

966. White workers less qualified than he, such as Josh Vanderbury, a welder with twelve years of experience and no TIG welding qualifications, were paid over \$28/hour by 2014.

967. When Plaintiff transitioned to permanent status, his rate increased to \$27.60. On information and belief, Plaintiff continued to earn less than equally or less qualified white workers.

968. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Marchello Fields

Racially Hostile Work Environment

969. Plaintiff is an African-American male. He was employed by NNI as a fitter from June 2012 to August 2013. Fields had approximately six years of fitter experience before joining NNI.

970. Thomas Jaffeux and Wayne Jackson supervised Plaintiff.

971. Racism affected Fields' day to day at NNI. Racist graffiti scrawled on walls of bathrooms also used by NNI supervisors included statements like, "I hate niggers." Supervisors referred to African-Americans as "you people," and drove cars emblazoned with the confederate flag. Workers, emboldened by the example set by supervisors, wore clothing depicting confederate flags. They openly exchanged racist jokes, for example, asking one another, "what's the difference between a black man and a dog crossing the road? Skid marks by the dog."

972. Jaffeux, Plaintiff's supervisor, racially harassed Plaintiff regularly. He referred to African Americans as "you people," called African Americans "brain dead," and made offensive

comments about their hair.

973. While Jaffeux constantly monitored the work of African Americans, Caucasian workers were able to socialize with supervisors in their offices and take regular breaks.

974. Wayne Jackson also harassed Plaintiff frequently. On a daily basis, Jackson threatened to fire Plaintiff and his African American coworkers, showing off that he had recorded the names of all of the African-Americans he had fired in a black book. He vocalized his belief that African Americans were drug-addicts, opining that African Americans were scared to file for worker's compensation because of the urine tests.

975. Jackson expected Plaintiff and other African Americans to stay beyond their shift to complete work, and constantly monitored their work. He followed Plaintiff and his African American coworkers to the bathroom and timed their bathroom breaks, telling them they were taking too long. Plaintiff and his African American coworkers were not allowed to get items from snack machines or use their phones.

976. In comparison, Jackson did not monitor closely the Caucasian workers' productivity. Caucasian workers were able to take snack breaks, coffee breaks, and smoke breaks and socialize with supervisors in supervisors' offices. They were sent off-site to pick up tools and materials, and even when they took over five hours to retrieve materials within a half hour's distance, nothing was said.

977. Jackson bullied African-American workers. For example, Jackson falsely accused Astro Bryn of sleeping on the job. Though multiple workers could attest that he had been awake, Jackson sent Bryn home.

978. Jackson also harassed Marcus (LNU), an African-American laborer, criticizing

Marcus' work, calling him slow, and giving him odd jobs around the shop.

979. Similarly, Jackson bullied Fields as well. Though he was an experienced fitter, he was assigned to pick up trash in the rain and paint, work other Caucasian fitters were rarely given.

Racially Disparate Pay, Promotion, Overtime and Training

980. Plaintiff was paid a starting wage rate of \$18/hour with six years of experience as a fitter. At hire, Wayne Jackson represented to Plaintiff that fitter's topped out at \$24/hour or \$25/hour.

981. Plaintiff was told that he would be evaluated at 30, 60, 90, and 120 days and would receive raises with every satisfactory evaluation. Plaintiff did not receive a 30 day evaluation; at his sixty day evaluation he was given a \$0.25-\$0.50 raise, where lesser or equally qualified Caucasian coworkers received \$1.00 raises; Plaintiff's 90 day evaluation was late an entire month; again he received a \$0.25 or \$0.50 raise, less than lesser or equally qualified Caucasian coworkers. Plaintiff did not receive a 120 day evaluation.

982. Plaintiff's rate, after raises, was \$20/hour; \$5/hour to \$7/hour below that of Caucasian coworkers who were less qualified. A Caucasian coworker who by reputation could not read a measuring tape was paid \$25/hour, \$5 more than plaintiff. Jesse Smith, had 5 or 6 years of experience welding in 2012, received regular raises and was making \$26/hour in Sept 2013.

983. Unlike Plaintiff, his Caucasian coworkers received their evaluations and raises in a timely manner.

984. Plaintiff's raises were smaller than that of equally or less qualified Caucasians,

further enlarging the pay rate gap between Plaintiff and his Caucasian coworkers.

985. Plaintiff requested Crane training from Wayne Jackson within a month of starting at NNI. Though two Caucasian workers were hired after Plaintiff, they were able to receive Crane training before Plaintiff. Fields had to wait six or seven months before receiving Crane training.

986. Plaintiff requested forklift training from Wayne Jackson within three months of being hired at NNI. Though Plaintiff continued to ask for forklift training at least two or three times a month, for three or four months, he never received the training. The same white workers that were initially given Crane training before Plaintiff were also able to receive forklift training.

987. Caucasian workers were promoted at a faster rate than Plaintiff and his African American coworkers.

988. On average, Caucasian workers were given the opportunity to become permanent employees less than a year after being hired. African-Americans were rarely offered the opportunity to become permanent employees.

989. Plaintiff was not offered an opportunity to become a permanent employee.

Constructive Discharge

990. On an almost daily basis, Jackson and Jaffeux harassed Plaintiff, treating him differently and worse than white co-workers. In addition to the offensive comments and speech he heard, Fields was relegated to menial work, and constantly harassed while doing odd jobs.

991. After more than a year of abuse, Plaintiff felt emotionally exhausted. The race-based mistreatment, the unaddressed racist graffiti, the negative environment and the constant threat of termination was intended to force plaintiff's resignation. Fields was constructively

discharged in August 2013, when he tendered his resignation.

Robert Robinson

Racially Hostile Work Environment

992. Plaintiff Robert Robinson was employed at NNI from June 29, 2014 to October 24, 2014. He had five years of welding experience before starting at NNI.

993. Brian Penny supervised Plaintiff Robinson on the night shift.

994. In just four months, Plaintiff was exposed to ingrained racism at NNI. Supervisors, including Donald Harwick regularly referred to Plaintiff and his African American coworkers as n*ggers. When NNI closed early for the night, and Harwick observed two African-American workers leaving for home, he commented, “the plantation has shut down.” When Plaintiff’s African-American coworkers complained about the racial epithets Harwick used regularly, Harwick’s behavior only worsened. For example, in or around July of 2014, African-American workers observed Harwick dangling a noose in their presence.

995. Other supervisors also spoke to African-Americans in an offensive and derogatory manner. Tommy Hines, referred to African Americans as “you people,” saying for example, “I don’t know why you people do that.” Emboldened by supervisors using racist language, Plaintiff’s white coworkers also made racially offensive remarks, such as calling African Americans, “ghetto,” “boy,” “you people,” “hood” and “you guys” on a daily basis.

996. Penny’s supervisor, Todd, made racially-biased comments, such as telling Plaintiff that his welding work was better than other African Americans’ welding work.

997. Following his supervisor’s example, Penny also discriminated against African American workers because of their race. He regularly assigned Plaintiff Robinson more work

than his white coworkers. For example, Penny asked Plaintiff to weld 30 to 35 joints but only required white workers to weld 15 to 20 joints. Depending on the job, each additional 5 joints, takes up to an additional hour or two hours to weld.

998. Robinson was assigned more physically demanding work than whites, such as welding work on low-density joints over high-density joints. Low-density joints are more physically demanding to weld and require a worker to go up and down a ladder during the welding process, while high density joints do not require as much movement. White workers were usually assigned work on high-density joints.

999. In contrast to Plaintiff, white workers were able to request the types of jobs they wanted and were able to receive exposure to a variety of work. After being assigned mostly fluxed-core welding work, Plaintiff asked Penny to place him on a TIG welding job so he could maintain his skills. Penny denied the request.

1000. Some white workers were able to leave work at 12:30 AM, while Robinson had to stay and work until 2:30 AM.

1001. White workers were able to take breaks at their leisure while Plaintiff and his African American coworkers were hassled if they took any breaks. For example, as was typical, while Plaintiff was smoking, Mike (LNU), a supervisor, approached Plaintiff and said, "this isn't a break time, disperse and get back to work." Caucasian workers taking breaks were ignored.

Racially Disparate Pay, Promotion, Overtime and Training

1002. Plaintiff Robert Robinson was hired at a pay rate of \$17/hour, though he was told at his interview that he would make \$22/hour.

1003. Plaintiff realized that a number of Caucasian workers less qualified than he were

earning more. For example, a Caucasian coworker, right out of high school, made \$18/hour; NNI was the worker's first welding job.

1004. Another coworker who had moved from North Carolina received relocation assistance from NNI. Robinson, who moved from Philadelphia to Newport News, requested relocation assistance, but was told that NNI offered none.

1005. When Plaintiff asked for overtime work, he was regularly denied the opportunity. When he and his African-American coworkers worked approximately 40 hours/week, his white coworkers had the opportunity to work 48 hours/week.

1006. TIG qualified workers had the opportunity to work ten hour days. Workers who were only Flux-cored welding qualified maxed out at eight hours per day. Robinson knew how to TIG weld, and asked his supervisor for TIG welding jobs, but he was constantly denied. In comparison, his white coworkers had the opportunity to pick the jobs they preferred.

1007. In his first month at NNI, Plaintiff asked Penny to sign him up to receive training in Pipe welding. Penny told him the company was not hiring pipe welders. Plaintiff continued to ask about pipe welding classes every couple of weeks, approximately 8 to 10 times. Penny responded consistently that NNI was not hiring Pipe Welders. When Plaintiff went online to verify whether Penny's statements were accurate, he saw that NNI was hiring pipe welders.

1008. Plaintiff pursued training opportunities with Todd. Doug Todd indicated that the classes were competitive but his welding skills seemed "better than other African Americans'."

1009. White workers were able to receive training in welding and pipe-fitting, while Plaintiff was not.

Constructive Discharge/Retaliation

1010. Plaintiff regularly complained to his supervisors about the discriminatory treatment to which he was subjected.

1011. Moving from Philadelphia, Pennsylvania to Newport News, Virginia, Plaintiff incurred significant debt. He asked NNI's recruiter if NNI offered relocation assistance, and was told that it did not. Two weeks later, a white coworker informed Plaintiff that he had received relocation assistance.

1012. On September 30, 2014, Plaintiff Robinson followed up with NNI's recruiter, pointing out that it was unfair that his white coworker had received relocation assistance but he was not given the same offer. The recruiter acknowledged the difference but responded that, by coincidence, the relocation assistance was not being offered when Plaintiff was hired, just 10 business days before his coworker. Plaintiff followed up with Todd and Penny but never received relocation assistance.

1013. Subsequently, Plaintiff learned that a white coworker, with a commensurate level of experience was paid \$22/hour to \$23/hour, while he was paid only \$17/hour. Plaintiff complained again to Penny about the disparity in pay, who justified the substantial gap by pointing out the co-worker's one additional year of experience. When Plaintiff inquired into what he could do to improve his qualifications to receive the same pay, his question was ignored.

1014. Later, Plaintiff Robinson found out that a white coworker out of high school, at his first welding job, earned more per hour than Plaintiff.

1015. After being assigned more work than his white coworkers, harassed through his jobs, paid less than white co-workers, ignored when he complained about discriminatory compensation and training opportunities, it was abundantly clear that NNI had little regard for its

African-American workers.

1016. As a result of the treatment, which was intended to force plaintiff's resignation, NNI constructively discharged Robinson.

1017. At his departure, Plaintiff complained to Human Resources in his exit interview that "I'm not sure if it's because I'm the wrong race but the way you have treated me is unfair."

Ronald Stewart

Racially Hostile Work Environment

1018. Plaintiff Ronald Stewart has been employed with NNI from 2002 to the present as a Mechanical Technician I, and II. In 2005, Plaintiff Stewart was offered a permanent position at NNI. He is one of a small handful of African-American workers NNI made permanent before 2014.

1019. Plaintiff Stewart is a highly-skilled welder with qualifications in Fluxed-core, stick, MIG, and TIG welding, and submerged arc-welding, both automatic and semi-automatic. Qualifications are earned through testing and permit a worker to use a particular skill at NNI. Plaintiff's job duties include welding, operating cranes, and operating forklifts.

1020. Kevin Angle supervised Plaintiff Stewart for the majority of his employment.

1021. Plaintiff Stewart was subjected to a hostile work environment while employed at NNI.

1022. At various times between 2007 and 2013, for a cumulative period of four years, Plaintiff Stewart worked alongside Steve Sheg, a make-up supervisor for Kevin Angle and Jimmy Leary.

1023. On a weekly basis, Plaintiff Stewart heard Sheg make offensive racial remarks to

African American workers. By way of example only, Sheg said of African American workers, “they don’t know what they’re doing,” and “they take so long doing things.” About specific African-American workers, he remarked, “I don’t know how he got that job the way his job looks,” “he’s so slow,” and “he can’t weld.” He did not routinely criticize white employees.

1024. Angle heard Sheg's comments at least once every two weeks when Plaintiff Stewart and Sheg were working together. He took no action to reprimand or correct Sheg.

1025. In or around 2010, Plaintiff Stewart was assigned to work on the melter project Jackson supervised at night. Jackson routinely subjected African American workers to discriminatory treatment. Every night Plaintiff Stewart worked with Wayne Jackson, the supervisor targeted Plaintiff, badgering him to work faster by asking, “how long that gonna take you Stew,” and “how you comin’ are you done yet Stew,” although he did not target white workers the same way. When Plaintiff requested that he be allowed to work through break-time to finish his shift earlier, like day shift workers were able to do, Jackson responded, “do you have a problem Stewart?”

1026. Jackson had a reputation for firing African American workers. In or around December 2011, Plaintiff Ronald Stewart learned that Plaintiff Willie Kershaw was fired for leaving slag on his weld. Plaintiff was shocked and offended that a worker could be fired for such a trivial infraction, and knew of no Caucasian workers that were fired for similar reasons.

1027. Plaintiff Ronald Stewart was assigned to the Pin Jig project for approximately two years. On the Pin Jig project Plaintiff had to endure freezing temperatures, rain, sleet, snow and hot, humid weather; more than 80% of the workers on the pin jig project were African-American.

1028. During the Pin Jig project, African American workers were told that they could

not drink coffee from the supervisors' lounge; Caucasian workers continued to be able to drink coffee from the lounge. Plaintiff Alfred Joyner, also on the Pin Jig project with Plaintiff Stewart, asked Kevin Angle for permission to bring his own coffee pot; though Angle granted permission, Jackson denied it.

1029. In or around 2012, Plaintiff Stewart was assigned to work for Jaffeaux. While on the job, he received little or no overtime for approximately six months. He saw that other Caucasian workers, including Josh Vanderbury and Jesse Smith, temporary employees for NNI with less experience and qualifications than he had, received overtime work.

1030. Additionally, Jaffeaux gave training opportunities to white workers but withheld them from African Americans. When he assigned fitting work, Jaffeaux regularly assigned the most critical part of fitting work – blueprint reading- to Caucasian workers, and the grinding work to African Americans. Daniel Cummings and Jesse Smith, two entry level white workers were propelled forward by Jaffeaux, while Plaintiff Kevin Smith, an African American worker seeking training, was kept at a standstill.

1031. In or around 2012, Plaintiff was once again working around Jackson and observed Jackson's continuing harassment and discrimination of African Americans. On multiple occasions, Plaintiff observed Jackson harassing Plaintiff Richard Bostic, an African American worker with diabetes, keeping him from eating at required intervals, and putting Bostic at risk of complications from diabetes. Plaintiff overheard Jackson tell Bostic, “why do you take so many breaks,” “why are you not on the job,” and, other similar statements, though Bostic was clearly a conscientious worker.

1032. Plaintiff Stewart also knew that Jackson was harassing Plaintiff Gordon on a

regular basis for approximately six to eight months. Plaintiff Gordon confided to Plaintiff Stewart that Jackson had accused him of using a gang name as his welding signature. A number of welders had welding signatures, and Plaintiff's signature was "black ice," a reference to the smooth quality of his welds. Though Plaintiff Gordon's supervisor, Kevin Angle, had no concerns about Plaintiff Gordon's welds, Jackson reported Plaintiff Gordon to the superintendent. Subsequently, Jackson took it upon himself to have Gordon's signature removed from his welds. Other Caucasian workers' signatures, like "snake man," and "slick fifty," were left undisturbed. Plaintiff Steven Gordon's nick-name, inked onto his toolbox, was also removed while Caucasian workers continued to have confederate flag stickers on their toolboxes.

1033. Within the past year, Plaintiff Stewart noticed that NNI prohibited eating in a room that African American workers had lunched in on a daily basis. Subsequently, Caucasian workers were allowed to eat in the same room.

1034. Throughout the time Plaintiff has been employed at NNI, including within the past year, he has noticed Caucasian workers conspicuously sleeping on the job during work hours without any obvious reprimand, while African American workers who have been accused of doing the same have been fired.

1035. Throughout the time Plaintiff has been at NNI, he has observed that African Americans have to work harder and be more productive to receive salaries less than or equal to Caucasians who are similarly or less qualified.

1036. Over the course of his employment, Plaintiff Stewart has witnessed Caucasian workers coming to work wearing bandannas depicting the confederate flag, t-shirts depicting the confederate flag, and license plates depicting the confederate flag. He also recalls seeing Benny

Hendrix wearing an extremely offensive t-shirt with the caption, “redneck fishing,” depicting a Caucasian individual in a boat fishing, with an African American man tied by his feet underwater.

1037. Plaintiff complained to Kevin Angle at least three times about the racial discrimination at NNI, saying “I see how you keep white people and I see how you keep black people.” Angle never responded to Plaintiff’s concerns.

Racially Disparate Pay, Promotion, Overtime and Training

1038. Plaintiff Stewart was a contract worker at NNI from approximately 2001 to 2005. In 2005 he was hired as a permanent employee at NNI with the title Mechanical Technician I at a salary of \$47,000. He was promoted to Mechanical Technician II in or around 2008 or 2009.

1039. Plaintiff Stewart was promoted at a slower pace and paid less than Caucasian employees with equal or inferior qualifications. For example, Steve Sheg and Scott Galloway began working at NNI in or around 2003. Unlike Plaintiff Stewart who had to wait four years to be hired into a permanent position, Sheg and Galloway were hired as permanent employees within a year's time.

1040. Plaintiff Stewart was promoted to Mechanical Technician II in three to four years. During the same time frame, Steve Sheg and Scott Galloway were promoted to Mechanical Technician III.

1041. On information and belief, Plaintiff Stewart was paid less at hire than Steve Sheg and Scott Galloway and continues to be paid less than Sheg and Galloway. Over the course of time, as Sheg and Galloway have been promoted at a faster rate than Plaintiff Stewart, the salary gap between them has widened.

1042. Over the course of time, as Plaintiff has acquired further qualifications, his pay has not increased commensurately, unlike the pay of Caucasian employees.

1043. In his evaluations, Plaintiff Stewart has been held to different standards than his coworkers Sheg and Galloway. Despite his considerable skill and knowledge, and drive to continuously improve his skills, he has been awarded 2's in his annual evaluation, given by Wade Lynn, Scott Jones, and other superintendents, whereas Sheg and Galloway have earned 4's or 5's consistently.

1044. In or around 2011, Plaintiff Stewart complained to Kevin Angle about why he had not been promoted to Mechanical Technician III. Initially, Angle responded that Plaintiff would receive the promotion. After a year's time, when Stewart followed up on the evaluation, Angle responded that Wade Lynn had denied the promotion.

Roderick Waddell, Jr.

Racially Hostile Work Environment

1045. Roderick Waddell, Jr. is an African-American male. He began at NNI in September 2013 as a laborer.

1046. Doug McKercher, Robert Slaughter, Astro Bryn, Daniel Cummings, Wayne Jackson, Jimmy Leary and Clem Stewart have supervised Plaintiff during his employment at NNI.

1047. Doug McKercher supervised Plaintiff from approximately Sept 2013 to January 2014.

1048. McKercher's treatment of Plaintiff and African-Americans reflected his stereotypical beliefs that African-American workers are lazy. On a daily basis, McKercher timed

Plaintiff's breaks and monitored his whereabouts. He would ask, "why aren't you working," or "why are you over here." White workers including Timothy Hill, a laborer, were co-opted by McKercher to track Plaintiff's bathroom time and time at the vending machine.

1049. In comparison to Plaintiff, white workers, including Stanley Matlock, Scott Jones' nephew who was a welder at NNI, and Timothy Hill, were not monitored and would disappear from their jobs for three to four hours at a time without reprimand.

1050. In fact, McKercher regularly socialized with Matlock and Hill, while Plaintiff was busy working.

1051. Plaintiff frequently received less desirable work than white laborers. On a daily basis, he was required to take out the trash, and sweep NNI's main building. In comparison, Timothy Hill, a white laborer, rode around on a forklift or monitored Plaintiff.

1052. Plaintiff asked Todd for forklift training to transport trash more efficiently. Todd indicated that he would look into it for Plaintiff but never got back to him.

1053. In or around January of 2014, Plaintiff was promoted to tool room attendant, but was hourly rate stayed the same.

1054. In February of 2014, Plaintiff was transferred to Oyster Point, where Jackson supervised him.

1055. Plaintiff observed Jackson make racially offensive comments to his African-American coworkers. Jackson asked Troy (LNU), an African-American worker, if he was a gang member. When Jackson saw Herbert Broughton's tool box signed with his fraternity's name, he asked Broughton if it was a gang symbol.

1056. Jackson's racial bias was also apparent in the way he treated African-American

employees. He constantly scrutinized Waddell. Plaintiff was required to be at work before 6 AM, the beginning of the shift, or Jackson would remark to Plaintiff “dock yourself accordingly.” If Plaintiff took a bathroom break, Jackson would exaggerate and remark, “you were in the bathroom for thirty minutes.” He threatened to reduce Plaintiff’s pay whenever Plaintiff took a break. If Plaintiff took a smoke break, Jackson would cut it short saying, “I need you back on the job” or “I need to get this done,” while white workers sat around smoking three and four cigarettes each.

1057. When Plaintiff was assigned to assist Steve LNU on a project, Plaintiff often waited for him to return from smoking three to four cigarettes at a time. If Jackson saw him waiting, Jackson would yell at Plaintiff saying “why aren’t you working” instead of chastising Steve for the delay.

1058. Plaintiff asked for a day off to attend a funeral. Jackson denied the request. Ricky Penrod, and Steve Smith, white co-workers, were able to receive multiple days off when they requested them.

1059. When workers listened to music with their cellphones plugged into the radio, Jackson singled out African-American workers telling them that cellphone use was not allowed, but ignored white workers doing the same thing, including Ricky Penrod, Steve Smith and Daniel Cummings.

1060. In or around July 2014, Plaintiff was transferred back to Enterprise Drive to work under Clem Stewart. Plaintiff’s job duties included assisting in sandblasting duties.

1061. Like McKercher and others, Stewart used racially offensive language towards African-American workers and micromanaged their work on a daily basis. Plaintiff Waddell, Jr.

observed Stewart refer to African-American workers as “boy,” heard Stewart tell them to “hurry up,” and saw that Stewart constantly monitored their work. On a daily basis, Stewart asked after Plaintiff, saying, “are you done with the work yet,” or “you need to get to work or you’re going to be fired.”

1062. Stewart made absurd, false accusations at morning meetings that Plaintiff was sleeping at the meetings, saying “if my boss caught you in here sleeping you would be fired on the spot,” all the while ignoring white workers, such as Ricky Penrod, who did in fact sleep during the meetings.

1063. Plaintiff was required to assist with sandblasting duties in temperatures below freezing, in rain and in hot and humid temperatures. Even when Plaintiff and his African American coworkers protested that the weather conditions were too dangerous for sandblasting and that the sandblasting hose used to smooth metal surfaces could easily be misdirected by wind, Stewart pressured Plaintiff and his African-American coworkers to sandblast.

1064. In October 2014, Plaintiff injured his knee at work. When Plaintiff informed Stewart of the injury, Stewart expected Plaintiff to continue working.

1065. Subsequently, Plaintiff brought a doctor's note prohibiting Waddell from lifting materials until his next doctor's appointment on February 23, 2015. Despite the note, Stewart asked Plaintiff to lift a trash receptacle weighing 50 to 60 lbs. When Plaintiff reminded him of his restrictions, Stewart requested that Plaintiff obtain a second note from the doctor. White workers were not subject to the same strict standards.

1066. When Plaintiff brought in a second doctor's note, he was told that he had to stay at home until February 23, 2015. Unlike white workers, Plaintiff was not offered light duty work to

perform, though it was available. For example, Plaintiff was able to transfer grit into a sandblaster, work he had been doing for the prior two weeks, and which NNI still required workers to do.

1067. From May 2014 to approximately August 2014, Plaintiff ate lunch on a regular basis with other African-American workers in a room near supervisors' offices. In or around August 2014, Doug McKercher told the African-American workers they could no longer eat in the room. A white worker would also eat in the room with Plaintiff and others, who continued to eat in the room after Plaintiff and his coworkers were kicked out.

1068. Plaintiff has regularly observed NNI workers parking trucks displaying the confederate flag in the company parking lot.

Racially Disparate Pay, Promotion, Overtime and Training

1069. Plaintiff was hired at a wage rate of \$10/hour as a laborer. He made at least \$3/hour less than white workers with similar qualifications.

1070. Chris [LNU], a white worker, was hired at a wage rate of \$13/hour. Jeff [LNU], a white worker, was also hired at \$13/hour.

1071. Plaintiff was told that he would receive evaluations and raises at thirty day intervals for the first one hundred twenty days of his employment. He received a fifty cent raise within the first thirty days of his employment. After persistently asking about his second evaluation and raise and being told by Doug McKercher, "if you keep asking about it, you won't get it," Plaintiff finally received a second raise of \$1/hour, seventy-two days after hire. Plaintiff did not receive a 90 day evaluation or raise.

1072. Plaintiff was given his 120 day evaluation forty-three days late with no increase in

pay. Doug McKercher explained that the reason for the lack of increase in pay was Plaintiff's absences. Plaintiff and Plaintiff Waddell, Sr. explained to McKercher that all three absences of Plaintiff's had been excused; two of Plaintiff's absences had been accompanied by a doctor's note and one of the absences occurred on a liberal leave snow day. Further, they explained that all three absences had occurred after Plaintiff's 120 day evaluation period. Despite Plaintiff's explanation, Doug McKercher did not reconsider the decision denying the raise.

1073. White workers missed multiple days a week of work and were still able to receive raises. For example, Alex [LNU] regularly was absent twice a week, but was making \$14.50/hour after his raises.

1074. Levy Cluts, a white laborer hired within months of Plaintiff, was making \$17.50/hour after his raises.

1075. White workers were regularly offered training opportunities and propelled forward in their careers. In contrast, Plaintiff and his African-American coworkers were not offered the same opportunities.

1076. Plaintiff regularly asked Doug McKercher for forklift training, reasoning that it would improve his efficiency in garbage disposal. He was not trained.

1077. Plaintiff asked Robert Slaughter for forklift training again when he saw workers being trained in the parking lot. Slaughter indicated that he would ask Doug McKercher to sign up Waddell, but again, Plaintiff was not trained.

1078. Plaintiff asked Astro Bryn, a make-up supervisor, if Bryn could sign him up for training in shooting studs, Bryn informed Waddell that he had actually signed Plaintiff up three different times, but each time Jackson took Waddell's name off the list.

1079. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Gilbert Wiltz

Racially Hostile Work Environment

1080. Plaintiff Gilbert Wiltz is an African American male. He has been employed as a welder at NNI from January of 2014 to the present. At hire, Plaintiff had approximately 29 years of welding experience, including experience TIG, stick, Fluxed-core and MIG welding.

1081. Plaintiff has been supervised by Ruel Scott, Donald Harwick, and Daniel Clark.

1082. Todd, as night shift superintendent, harassed Plaintiff because of his race.

1083. A culture of racism surrounded Plaintiff at NNI. African-Americans with expensive cars were denigrated, called, for example, "a nigger with a Porsche." Workers openly wore confederate flag t-shirts in front of supervisors. Workers drove cars emblazoned with the confederate flag.

1084. Todd expected Plaintiff and his African-American coworkers to be constantly working, criticizing them for taking breaks white workers were allowed. A typical example of Todd's discriminatory treatment was when Plaintiff Wiltz was at a hold point in his work, waiting, as required, for quality control inspection. Todd commented to Plaintiff, "I can see that your area is clean, but could you get a broom and act like you're doing some work." Other white workers standing around socializing in groups were ignored by Todd.

1085. Plaintiff witnessed Todd bully and belittle African-Americans. For example, [REDACTED] Joyner was regularly threatened by Todd with write-ups. When he was out of his area he was questioned. He was given more work than other white workers and expected to complete it in less time.

Racially Disparate Pay, Promotion, Overtime and Training

1086. Plaintiff Wiltz pay at hire was approximately \$23/hour or \$24/hour. He was told that he would be given a raise with every satisfactory evaluation at intervals of 30, 60, 90, and 120 days and would likely be paid \$27/hour at least. He did not receive any of these evaluations or raises.

1087. Unlike Plaintiff, his Caucasian coworkers received their evaluations and raises in a timely manner.

1088. Caucasian workers who are similarly or less qualified than Plaintiff make more than Plaintiff. For example, Joe, a Caucasian welder, who was previously a cook, started at \$26/hour. Josh Vanderbury, a welder, with approximately ten years of welding experience and no TIG welding qualifications, currently makes \$28.50 an hour, without a high school diploma or GED.

1089. In or around March of 2014, Plaintiff complained to Doug McKercher that he had not received his 30 or 60 day evaluation. McKercher said he would see what he could do, but nothing happened.

1090. In or around April of 2014, Mike Debord, a supervisor, asked workers to give their names to him if they had not received timely raises so the issue could be addressed. Plaintiff Wiltz submitted his name to Debord, but did not receive a raise. Plaintiff knew that his Caucasian

coworker was given a raise.

1091. While requesting the names of workers, Mike Debord announced that NNI was transitioning to a new system, where permanent workers would receive raises only on a yearly basis. After Plaintiff Wiltz became permanent, he could only receive raises on a yearly basis. Having failed to give him a raise in the first four months of his employment, NNI perpetuated the discriminatory pay differential by instituting the annual raises, postponing the next possible opportunity for Wiltz to receive an increase.

1092. Plaintiff is a highly qualified welder, with experience in TIG welding; Caucasian workers far less qualified than Plaintiff earn more than he does.

1093. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Jonathan Dantes

Racially Hostile Work Environment

1094. Plaintiff Jonathon Dantes is an African American male. He was contracted through Ameriforce to work at NNI as a welder, which he did from March 2014 to August 2014. He has approximately 21 years of experience, with superior skills in welding, including a TIG welding certification.

1095. Plaintiff's primary supervisor was Jim Leary. He was also supervised by Wayne Jackson, Mike Schwartz and Sheg.

1096. Jackson and Schwartz harassed Plaintiff because of his race.

1097. While supervised by Jackson and Schwartz, Plaintiff was bullied and demeaned. He was under constant pressure to work. White employees were able to work at their own pace, talk in groups, and take long lunches.

1098. Two weeks into working for Jackson, Plaintiff was moving homes and was forced to make logistical arrangements while at work because he worked six days/week. When Plaintiff took an extra fifteen minutes talking to the electricity company, Schwartz asked Plaintiff why he was late to the job and stated “be mindful of the time.”

1099. While Plaintiff was told to pay attention to his timing, other Caucasian workers were still having lunch and also standing around in the midst of conversation. On a daily basis, Caucasian workers took longer lunches and freely milled about talking to one another.

1100. One week later, because Plaintiff took a day off from work to move, Jackson had him transferred off of the Nuclear Project back to Jimmy Leary's supervision.

1101. After his transfer to Jimmy Leary's crew, Plaintiff purchased a Mercedes. “Chris,” a Caucasian coworker commented, “damn you're driving a nice car.” An African American coworker commented, “you should be careful because Wayne may fire you for the Mercedes.”

Racially Disparate Pay, Promotion, Overtime and Training

1102. In August of 2014, while Leary went on vacation for two weeks, Sheg substituted in as make-up supervisor. At lunch time, Plaintiff decided to take a nap. Sheg saw him napping and came up to Plaintiff to ask for his ID card, which workers are required to leave at a table while on lunch break.

1103. Following lunch, Sheg and Wade Lynn, general manager of NNI, called him in for

a meeting. Sheg falsely alleged that Dantes had been caught sleeping six times on the job. Dantes had never slept on the job during work hours and had never been written up for doing so. Even so, he was fired.

1104. Subsequently, Plaintiff learned that NNI barred Plaintiff from working at both NNI and HII's shipyard.

████████ Joyner

Racially Hostile Work Environment

1105. Plaintiff █████████ Joyner is an African American male. He was employed at NNI as a welder from November 2013 to March of 2015. At hire, he had approximately five years of welding experience.

1106. Plaintiff was surrounded by racism at NNI. White workers wore Confederate flag t-shirts to work. Racist graffiti was scrawled on NNI's bathroom stalls, including terms such as “n*ggers.”

1107. Supervisors fanned the racial hatred among workers. In or around July of 2014, Harwick menaced Plaintiff Joyner by dangling a noose in his presence. The blatantly racist action shocked and upset Plaintiff.

1108. Other supervisors made their disgust for African-American workers obvious by barely acknowledging or making eye contact with them. Ruel Scott supervised Plaintiff for a short period of time, and rarely made eye contact or spoke to Plaintiff during that time. He used Plaintiff's white coworkers to transmit messages to Plaintiff.

1109. Doug Todd, the night-shift superintendent at NNI beginning in July of 2014, took every opportunity to harass and disparage Plaintiff. On a daily basis, Todd would make racially offensive comments, saying for example, “I leave for a minute and you people are out here basically fucking off,” and demeaning comments such as saying, “[REDACTED] is nothing but a Punk.”

1110. Todd expected Plaintiff and his African American coworkers to work harder than whites. He could not tolerate seeing Plaintiff away from his work station for even the shortest period of time. Doug Todd would regularly instruct Plaintiff's supervisors to give Plaintiff more work to keep him busy. For example, he asked Donald Harwick to give Plaintiff Joyner “more work sweeping” on Plaintiff's downtime when Plaintiff was waiting for others to complete their work. If Todd saw Plaintiff away from his work station, he would ask, “why are you walking around the shop?”

Though Todd observed that other Caucasian workers were also away from their work stations and socializing, he said nothing to them.

1111. On a daily basis, Todd harassed Plaintiff and his African American coworkers while they were taking smoke breaks. Caucasian workers were able to stand around and talk to each other in groups and smoke, while Todd rushed African American workers and told them not to speak to one another.

1112. Plaintiff was regularly disciplined for actions which Todd overlooked when undertaken by white workers. For example, when Plaintiff [REDACTED] Joyner was attempting to put his cellphone on vibrate before a morning meeting, Todd ordered Clark to write-up Plaintiff for being on his cell phone; multiple workers could attest that he was not using his phone. In

comparison, when Todd saw Penrod on his cellphone, he joked with him, “you know you’re not supposed to be on your cell phone,” and did not write him up.

1113. Clark, under pressure by Todd, also discriminated against African Americans. He assigned last minute work to Plaintiff and his African Americans coworkers, expecting them to complete it the same night.

1114. Clark also monitored Plaintiff and African Americans more closely than white workers he supervised and demanded that African Americans work harder than Caucasian employees. For example, if Plaintiff Joyner would use the bathroom, Clark would berate Plaintiff asking him why he had taken so long. Caucasians were not subjected to similar intrusive inquiries. Clark also routinely demanded that Plaintiff remain in his work area while white workers were allowed to roam the shop floor.

Retaliatory Termination

1115. Plaintiff filed his claims against NNI on February 11, 2015.

1116. In little over a month after filing his complaint, Plaintiff was fired from NNI.

1117. On approximately April 15, 2015, NNI confiscated Plaintiff’s phone, searching through his personal email accounts, Facebook accounts, and text messages without his consent, taking greater license than a police search warrant would allow.

1118. On April 20, 2015, NNI fired Plaintiff on the pretext that he had taken a photograph at NNI. In fact he had been fired in retaliation for his joining the NNI lawsuit.

1119. NNI does not ordinarily terminate workers for taking pictures. In fact, when Supervisor Clark witnessed Nick Whitehurst taking pictures at NNI with his phone, he merely told him to put his phone away. No punishment was meted out.

1120. Whitehurst has on an ongoing basis posted pictures of NNI onto his Instagram account without reprimand. *Supra*.

Racially Disparate Pay, Promotion, Overtime and Training

1121. Plaintiff was hired at \$23/hour with five years of experience as a welder. At his interview, he was informed that he would receive raises with every satisfactory evaluation at intervals of 30 days, 60 days, 90 days, and 120 days, to possibly reach \$27/hour. Plaintiff did not receive these evaluations or raises. When Plaintiff asked Ruel Scott about the status of his evaluation and raises he was told that NNI was no longer giving raises.

1122. Plaintiff earns less than similarly or less qualified Caucasian workers. For example, in or around January 2014, a white welder, Joe [LNU], was hired at \$26/hour, with no prior experience in the trades.

1123. In 2014, Plaintiff was made a permanent employee at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Marvin Smith

Racially Hostile Work Environment

1124. Marvin Smith is an African American male. He began at NNI in February 2, 2014 as a welder. He had approximately 30 years of experience when he began, including experience burning, fitting, and MIG, Flux-cored, Stick and Carbon-arc welding.

1125. Kevin Angle and, occasionally, Scott Ruel have supervised Plaintiff Smith.

1126. A culture of racism confronted Plaintiff Smith when he began at NNI. Confederate flag decals, bumper stickers, and flags were displayed on cars parked in NNI's parking lot, easily visible to supervisors. White workers would regularly voice their racial biases, even in front of supervisors, commenting that African-American workers were illiterate, lazy, and incompetent.

1127. The extent of the racial hostility became obvious to Plaintiff Smith when Superintendent Doug McKercher kicked African-American workers out of a conference room where Plaintiff often dined, but allowed white workers to continue eating in the room.

1128. On a regular basis, Plaintiff Smith heard and continues to hear racist comments from his white coworkers. For example, James Nicks frequently made derogatory comments about African-Americans, referring to Plaintiff and his African-American coworkers as "them people," and calling African-American workers "dumb."

1129. While Plaintiff was working with James Nicks, he criticized Plaintiff's, and his African-American coworkers', welding work on an almost daily basis though Nicks, himself, had no experience welding and had been a truck driver prior to getting hired at NNI in or around 2014.

1130. In addition to making snide remarks about Plaintiff's craftsmanship, Nicks would intentionally bump into Plaintiff or rub up against him, badgering Plaintiff. Plaintiff repeatedly protested Nicks' harassment and avoided confrontation by stepping away from Nicks.

1131. After witnessing Nicks' frequent harassment of Plaintiff Smith, Plaintiff Steven Gordon spoke up on Plaintiff's behalf saying, "why're you doing that."

1132. Intent on bullying Plaintiff, Nicks continued to badger Plaintiff Smith even after Plaintiff Smith and Plaintiff Gordon's protests.

1133. Nicks was flagrant in his racially offensive treatment of Plaintiff. For example, speaking to Supervisor Ruel in front of Plaintiff, Nicks commented, “black guys are always messing up.” Upset, Plaintiff Smith stated, “if you have something to say about me, say it to my face.” Ruel made no attempt to reprimand Nicks for his racist remark after listening to the exchange.

1134. Nicks continued to make racially offensive comments even after he was transferred to a different work-site. In the summer of 2014, Plaintiff was in the supervisor's trailer, getting reading material for his job. Kevin Angle, Plaintiff's supervisor, was exchanging pleasantries with Nicks, asking Nicks if he had visited Buffalo beach, a beach frequented by a majority African-American population. Nicks responded, “I don't hang out down there with them people.” Plaintiff was standing within ten feet of Nicks. Angle laughingly ended the conversation.

1135. In addition to sanctioning racially offensive language from a position of authority, Angle regularly assigned more technically challenging work, likely to advance a worker's career, to less skilled white workers over Plaintiff and his African American coworkers. Despite his thirty years of experience welding, Plaintiff Smith was regularly assigned menial tasks, such as sweeping and grinding. Plaintiff's white coworkers who had less experience than Plaintiff did, including Steven Choa, who had less than five years of experience, Christian Watson, who had less than five years of experience, and Josh Vanderbury, who had less experience than Plaintiff, were given specialty work, such as full-penetration welding. Angle did not rotate the technically skilled work among those who were capable of performing it, nor did he give it to those most qualified to perform the work.

1136. Angle regularly also distributed more overtime work to white workers relative to Plaintiff and his African American coworkers. Angle frequently indicated to Plaintiff that no overtime work was available, and only later, would Plaintiff find out that Vanderbury, Choa, Watson, and other white workers had been asked to work overtime. For weeks at a time, Plaintiff's white coworkers received between 8 to 16 more hours per week of overtime work than Plaintiff.

1137. Plaintiff also knew that his coworkers were subjected to similar racial harassment and discriminatory treatment. Plaintiff Gordon complained that Wayne Jackson harassed him on a regular basis, calling him a gang member, and making derogatory comments about his welding signature. Plaintiff Chesson indicated that he was routinely discriminated against despite his qualifications and nitpicked by Jackson. Plaintiff Nichols confided that he had also been subjected to racial harassment by Nicks and Ben Vogle.

Disparate Pay, Promotion, Overtime and Training

1138. When Plaintiff Smith started at NNI on February 2, 2014 he had approximately 30 years experience burning, fitting, and welding. He had experience performing multiple welding processes including MIG, Flux-Cored, Stick and carbon-arc welding. His starting rate was \$23 per hour. Over one year of working, he was given only a single raise of approximately \$0.50/hour to \$0.75/hour.

1139. Josh Vanderbury, a white welder, with less experience than Plaintiff, received approximately \$28/hour in 2014. Other white workers, who had many years less work experience than Plaintiff, such as Christian Watson, who had five years of experience, was paid \$23/hour like Plaintiff.

1140. In addition to being paid less than other white workers, Plaintiff was less likely to be scheduled for testing to receive further welding qualifications. Though Plaintiff already had experience performing MIG and Stick welding processes, Angle ignored Plaintiff's multiple requests to be scheduled for testing to receive Stick welding qualifications. Other white workers were regularly scheduled for testing when it was requested.

1141. Plaintiff also received less overtime work relative to his white coworkers. Kevin Angle regularly assigned Josh Vanderbury, Christian Watson, and Steven Choa to overtime work, while insisting to Plaintiff that no overtime work was available. For months at a time, Plaintiff's white coworkers received 8 to 16 more hours per week of overtime than Plaintiff.

Brandon Walker

Racially Hostile Work Environment

1142. Plaintiff Brandon Walker is an African-American male. He has been working at NNI as a laborer since September 4, 2013.

1143. Wayne Jackson, Clem Stewart, and Ryan Scott have supervised Plaintiff Walker.

1144. Jackson supervised Plaintiff from September 4, 2013 to approximately February 2014.

1145. Throughout the time Plaintiff has been employed at NNI, he has been surrounded by racially offensive symbols and subjected to racially offensive behavior. Confederate flag bumper stickers, Confederate flag license plates, and Confederate flag decals are displayed on cars in NNI's parking lot, easily observable by supervisors. As recently as April 2015, Plaintiff has continued to see cars parked in NNI's parking lot displaying the Confederate flag.

1146. Beginning from Plaintiff's initial months of employment at NNI, supervisors

frequently addressed African-American workers as “boy.” Upper management regularly made derogatory comments about African Americans, including Superintendent Doug Todd who, for example, stated, “to be honest, I was kind of afraid of black people, now I have them working with me or for me.” Doug McKercher also made similar comments, for example, stating “how did he afford that car,” about an African-American worker.

1147. Upper management's racial biases were also apparent in their treatment of African Americans. For example, in or around August of 2014, Doug McKercher prohibited Plaintiff's African-American coworkers from eating in a conference room, but continued to allow white workers to eat in the same room.

1148. Within the openly racist environment, Plaintiff's white coworkers felt comfortable voicing their own racial biases. By way of example only, Stan (LNU) commented, “I’m not racist, I have black tires.” Levy Cluts’ favorite joke was “why are black people afraid of chainsaws, because when you start a chainsaw it goes n*gger n*gger n*gger,” which he told often.

1149. In October of 2014, Cluts texted Plaintiff Walker a video of white families merrily square dancing to the song “N*gger Hatin’ Me.” Threatening lyrics, such as, “You know it...cause I show it!/Stick your black head out and I’ll blow it,” played as white couples kicked their heels up and danced. Plaintiff Walker was stupefied that his white coworker felt comfortable sending him the text; Plaintiff Walker asked for Plaintiff Hooker's advice on how to address the situation. Multiple African-American workers became aware of the video and identified the video as reflecting the convictions of their white coworkers who openly endorsed the Confederate flag and freely addressed African-American workers with racial slurs.

1150. Jackson, Plaintiff's supervisor, contributed to the racist environment, harassing and demeaning Plaintiff and African-American workers on a daily basis. Jackson often addressed African-American workers, as "boy," a term he did not use to address white workers.

1151. From his first month at NNI, Plaintiff was a diligent worker. He outperformed his white coworkers, and was constantly busy. He completed up to one hundred mechanical tests of joint welds per day assigned to him by Jackson. In comparison, Plaintiff's white coworkers would regularly complete less than 20 mechanical tests. When Plaintiff submitted his work to Jackson, Jackson would respond, "what took you so long."

1152. As he was working, Plaintiff saw that his white coworkers were permitted to take breaks, walk around and talk in groups. In comparison, if an African-American worker spoke to another African-American worker, Jackson would ask, "what do you think you're doing, get back to work." When an African-American worker took a bathroom break, or purchased snacks from a vending machine, Jackson would penalize the worker.

1153. While Jackson ensured that African-American workers were constantly working, white workers were able to openly nap without reprimand. Plaintiff regularly saw Ricky Penrod sleeping on the job, easily visible to supervisors.

1154. Worse, similarly qualified white laborers relative to Plaintiff would regularly be paid between \$1/hour to \$2/hour more than Plaintiff.

1155. In or around December 2013, Plaintiff complained about the disparity in pay to Jackson, saying that Jackson was constantly asking Plaintiff to train laborers and giving him five times more work than his white coworkers by assigning him to complete 100 mechanical tests per day, but was not paying him adequately for his responsibilities. Jackson responded by

promising that he would give Plaintiff a \$1/hour raise if Plaintiff Walker “kept up the good work.”

1156. Over the next thirty days, Plaintiff Walker continued to work hard, completing 100 mechanical tests per day, and training laborers. He continued to see that white laborers would regularly do little work, barely completing 20 mechanical tests per day, and would sit around unoccupied without reprimand while African-American workers were constantly criticized by Jackson.

1157. At the end of thirty days of work, Plaintiff heard that similarly qualified white workers received up to \$1/hour raises, while Jackson awarded Plaintiff a \$0.50 raise.

1158. In or around January 2015, Plaintiff submitted a written complaint to Scott Jones, addressing Jackson's demeaning and discriminatory treatment. He stated that Jackson regularly belittled Plaintiff and ignored his greetings. Though Plaintiff worked harder than others, Jackson paid him less. Furthermore, Jackson had promised Plaintiff a \$1.00/hour raise if he continued to work hard, and later, had unjustifiably backed out of his promise to Plaintiff.

1159. Rather than address the core issue of racial discrimination, Jones suggested to Plaintiff that he pursue a trade and further training if he wished to be paid more. In fact, Plaintiff Walker had already attempted to upgrade his training, by seeking forklift qualifications, and had been put off by Jackson who preferred to recommend white workers for training and advancement over African-Americans.

1160. Following Plaintiff's complaint to Jones, Jackson retaliated against Plaintiff by relegating Plaintiff to sweeping NNI's main building all day long. For ten hour days, over two months, Plaintiff swept NNI's floor. Even when help was needed on other jobs, for example on

mechanical testing jobs, Jackson would refused to assign the work to Plaintiff. Observing him sweeping, workers would comment, “you must be on Wayne Jackson’s shit-list because he’s making you sweep the floor everyday.”

1161. When Plaintiff was transferred to work under other supervisors, Jackson continued to harass and belittle Plaintiff. For example, when Plaintiff was assigned to work under Astro Brinn, from February 2014 to May 2014, Jackson went out of his way to criticize Plaintiff’s work. When Plaintiff was sweeping, Jackson would sarcastically comment, “I thought you would go the extra mile,” pointing out workers’ personal articles sitting in areas Walker had already cleaned. Jackson would also encourage Brinn to penalize Plaintiff, telling Brinn, “he’s not doing the work you asked him to do.”

1162. Sometime while under Brinn's supervision, Plaintiff tested to receive his stud shooting qualifications. Throughout the test, Jackson hurled negative comments at Plaintiff, criticizing the way Plaintiff was holding the stud gun, and remarking that Plaintiff was going to fail. Ultimately, Plaintiff was unable to concentrate on his test due to Jackson's comments, and did not pass. After the test, Brinn remarked, “you know you could have done a lot better but Wayne was intimidating you the whole time.”

1163. From May 2014 to August 2014, Paul Binder supervised Plaintiff in the quality assurance office. Plaintiff's white coworker, Levy Cluts, was also transferred to quality assurance. He regularly made racially offensive remarks, referring to African-American workers as “n*ggers.”

1164. Throughout his time at NNI, Plaintiff Walker has continued to be subjected to a hostile work environment and racial discrimination on a regular basis. For example, Jackson

continued to harass Plaintiff. When Plaintiff was listening to slow jam music, permitted under NNI policy, and white workers were listening to music with racially offensive lyrics including the racial slur “n*gger,” Jackson constantly badgered Plaintiff to turn down his music, but said nothing to white workers.

1165. In or around January 2015, Jackson handed out worksheets with the caption, “there have been recent observations reported on the use of [Personal Entertainment Devices] on the shop floor.” Depicted on the worksheet was Barney Gumble as a black ink-spot wearing earbuds. *Supra*. The photograph illustrated Jackson's hyper-vigilant monitoring of African-American workers over whites; though any worker may have been using headphones to listen to music, NNI went out of its way to depict the individual as an insulting caricature of an African-American worker.

1166. In October 2014, Plaintiff was finally able to attend welding school. Though Jones had indicated to Plaintiff that his rate of pay would be increased if he pursued a trade, Plaintiff continued to make \$15.53/hour, the same rate of pay he had made as a laborer prior to attending welding school. In March 2015, when Plaintiff received his annual raise, a raise of \$0.53, Plaintiff still made less than Levy Cliff, his white coworker, had made as a laborer.

Disparate Pay, Promotion, Overtime and Training

1167. When Plaintiff Walker began at NNI on September 4, 2013 as a laborer, he was paid \$13/hour. After receiving raises over the course of four months, Plaintiff's rate of pay increased to \$15.53/hour.

1168. Levy Cluts, a white worker, was hired after Plaintiff and was trained as a laborer by Plaintiff. Even so, Cluts was paid \$16.50/hour after his initial raises, almost \$1.50/hour more

than Plaintiff.

1169. In October 2014, Plaintiff attended welding school. Though Jones had indicated that Plaintiff would make more money as a welder, Plaintiff continued to be paid \$15.53/hour, a laborer's wage rate. Even after his annual raise, in March 2015, Plaintiff still made a laborer's pay, \$16.06/hour, much lower than the starting wage rate for welders of \$23/hour Plaintiff had been quoted by Beverly [last name unknown] at Human Resources when he had applied to NNI, and which other beginner white welders were paid.

1170. In addition to being paid less, Plaintiff was regularly passed over for training opportunities. He asked for forklift training from Jackson on multiple occasions, beginning in November 2013, but was not given the opportunity to receive training. White laborers who had been hired after Plaintiff, however, were selected for forklift training before Plaintiff, including John Bundy and Chris Barefoot. Both Bundy and Barefoot received training in 2014, after Plaintiff had inquired about receiving forklift training himself.

1171. In March 2014, Plaintiff was transferred into a permanent position at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Herbert Broughton

Racially Hostile Work Environment

1172. Plaintiff Herbert Broughton is an African American male. He has been employed

at NNI since February of 2014 as a laborer.

1173. Wayne Jackson and Robert Slaughter have supervised Broughton.

1174. From his first day at NNI, Broughton was confronted with symbols of racial oppression. In NNI's parking lot, Confederate flag decals, Confederate flag bumper stickers, and Confederate flag license plates were displayed on multiple employee cars, easily observable by supervisors.

1175. In the openly racist work environment, white workers used the term "n*gger" without reservation to refer to African-Americans. Supervisors monitored African-American workers' work more closely, followed African-Americans around while they were working, and referred to African-American workers with racially derogatory terms, including "boy."

1176. The racist attitudes were sanctioned by upper management, including Superintendent Doug McKercher. McKercher kicked out African-American workers from a conference room in which Plaintiff Broughton had been eating regularly with his African-American coworkers; white workers continued to eat in the conference room.

1177. Beginning in or around June of 2014, Wayne Jackson began supervising Plaintiff. Jackson regularly denigrated African American workers and called them "boy," a term he did not use to address white workers.

1178. Jackson generally assigned Plaintiff and his non-white coworkers menial work. Plaintiff was given physically arduous grinding work and was on his knees throughout the day. Other white laborers were given opportunities to receive training on more skilled work while doing unskilled tasks.

1179. Jackson relished giving menial tasks to Plaintiff and his non-white coworkers to

ensure they did not progress in their career, and Plaintiff noticed that non-white skilled welders were given the same jobs as non-white laborers. For example, Plaintiff Alvarez, a Latino skilled welder, was assigned to grinding work just as often Plaintiff, rather than to blueprint reading, work to which mostly white welders were assigned. The lack of opportunity for even skilled non-white workers discouraged Plaintiff and illustrated that opportunities for upgrading skills and advancement were limited across skill levels for non-white workers.

1180. In addition to assigning more physically demanding tasks to non-white workers, Jackson also rushed Plaintiff and his non-white coworkers in their jobs. Jackson was commonly within the vicinity of Plaintiff and his non-white coworkers, monitoring and nitpicking their work, while allowing white workers to work at their own pace.

1181. Jackson monitored Plaintiff and his non-white coworkers even during bathroom breaks, the most private of times. For example, Jackson would follow Plaintiff Waddell, Jr. to the bathroom and time the length of his bathroom break. Jackson would enter the bathroom every five minutes to check on Plaintiff Waddell, Jr. When Plaintiff Waddell, Jr. would exit the bathroom Jackson would ask, "what took you so long?" Plaintiff Broughton minimized his use of the restroom even when he needed to use it, observing Jackson's treatment of his coworker Plaintiff Waddell, Jr.

1182. Even when Plaintiff and his non-white coworkers were performing job-related tasks, Jackson rushed Plaintiff and his non-white coworkers. For example, when Plaintiff Waddell, Jr. was in the computer room, logging in his work, Jackson would exclaim, "you need to dock yourself time, boy, you're taking too long on the computers." Jackson badgered Plaintiff and his African American coworkers over their computer use, even though they were performing

required work such as logging in their time, reading job procedures, and completing other job-related tasks.

1183. Jackson punished Plaintiff and his non-white workers for little reason. When he saw Plaintiff Alvarez preparing for his break by putting away his tools one minute prior to break-time, Jackson accosted Plaintiff Alvarez asking, “Why aren’t you working?” and penalized him by taking away his break.

1184. Even when Jackson wasn't supervising Plaintiff Broughton, Jackson continued to monitor Plaintiff Broughton’s work, harass him and refer to him as “boy.”

1185. Other workers noticed the openly racist attitudes of supervisors and felt comfortable voicing their own biases. While taking smoke breaks, Plaintiff regularly overheard white workers talking to one another and openly referring to African-American workers as “n*ggers.”

1186. In February 2015, Plaintiff began welding “school.” While attending welding sessions, Plaintiff continued to experience racial discrimination. Plaintiff's white coworkers in welding school were given guidance and feedback on welding techniques. In their “free time,” white workers were able to practice welding techniques on the job. In comparison, Plaintiff was given little to no training, and was basically given materials and asked to weld. He did not have “free time” at work and was not able to use work time to practice welding. When Plaintiff was given welding tests without training and set up to fail, unsurprisingly, he did not pass.

1187. When he returned from welding school, Doug Todd, an NNI superintendent, pressured him to transfer to night shift to work from 5 PM to 3:30 AM from his position as an attendant metal shack, where Plaintiff was initially assigned to work prior to welding school.

NNI more often pressured African-American workers to transfer to the night-shift from the day-shift, than white workers on the day-shift. Plaintiff protested that his wife was pregnant and needed to be cared for and therefore, the transfer was not feasible. Furthermore, the sandblaster position, to which he was being transferred, would exacerbate his back injury. He entreated Todd to allow him to continue in his metal shack position.

1188. Todd was unrelenting. Plaintiff suggested that instead of forcing him to change shifts, Todd ask for volunteers to work the third shift, as Huntington Ingalls, Inc., NNI's parent company, would do for its workers. Todd declined Plaintiff's suggestion and forced him to transfer.

1189. Unable to manage the transfer to night shift as a sandblaster, Plaintiff was forced to apply for FMLA leave.

Disparate Pay, Promotion, Overtime and Training

1190. When Plaintiff Broughton was hired in February of 2014, he was started at a salary of \$12/hour. The Huntington Ingall's Human Resources department, shared with NNI, informed Plaintiff that \$12/hour was his temporary rate of pay and that he would receive raises every thirty days for the first four months of his employment at NNI to reach his final wage rate.

1191. Thirty days into working for NNI, Plaintiff asked his supervisor, Robert Slaughter, about the status of his first raise. Slaughter responded that because Plaintiff was being transitioned into a permanent employee position he didn't "need the extra money." Subsequently, Plaintiff learned that many of his white coworkers had received raises prior to becoming permanent employees in March of 2014 and in fact, many white laborers with qualifications similar to Plaintiff had been given maximum laborer pay of \$15/hour.

1192. For example, Joey Gibson, a white laborer, made \$15.50/hour, with no prior experience working in the trades. Other white laborers made at least \$13/hour, including Chris (LNU) and Jeff (LNU). Neither Chris (LNU) nor Jeff (LNU) had prior experience working in the trades.

1193. When Plaintiff was transferred to welding school in February of 2015, he was given little guidance on how to weld. Plaintiff's white coworkers were not only given feedback on how to improve their welding skills, they were offered opportunities to practice welding while on-the-job. He was unable to pass his welding test for a lack of training and guidance.

1194. In March of 2014, Plaintiff was transferred into a permanent position at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

Richard Payton

Racially Hostile Work Environment

1195. Plaintiff Richard Payton is an African-American male. He was employed at NNI from approximately October 2013 to June 2014. Plaintiff Richard Payton worked as a laborer until April 2014, when he was promoted to a fitter position.

1196. Wayne Jackson and Eric Tucker supervised Plaintiff.

1197. Racism permeated NNI's work environment. Multiple times a week, Plaintiff overheard white workers referring to African-American workers as "n*ggers." On the walls of bathrooms, Plaintiff regularly observed racist graffiti, such as statements including, "n*ggers go

home,” and “n*ggers not wanted,” easily observable by supervisors who also used the same bathrooms. Plaintiff also regularly observed Confederate flags displayed on employees' trucks parked in NNI's parking lot.

1198. Upon seeing a pick-up truck parked at the entryway of NNI's main building displaying multiple Confederate flags, including a Confederate flag on its front plate, a Confederate flag on its back plate and an actual Confederate flag hanging from its tailgate, Plaintiff complained to Superintendent Scott Jones about the prominently displayed symbol of racial oppression. Even after his multiple complaints, and the complaints of his coworkers, including Plaintiff Ian Blow, Plaintiff continued to see the same truck parked at NNI's entryway with its Confederate flags prominently displayed.

1199. Upper management sanctioned NNI's racist environment. Not only did Jones fail to respond to Plaintiff's complaints of racism, other superintendents at NNI also treated Plaintiff and his African-American coworkers in a racially offensive manner. For example, in the summer 2014, Doug McKercher, a superintendent, prohibited Plaintiff and his African-American coworkers from eating their lunch in a conference room, but continued to allow white workers to eat in the same room. On another occasion, Doug Todd, a superintendent, voiced his belief that “African Americans are only fit for laborer work,” in front of multiple NNI employees.

1200. Supervisors, including Jackson, also contributed to NNI's racist culture. Jackson supervised Plaintiff from October 2013 to approximately April 2014. On a daily basis, Jackson made harassing and racially offensive comments towards Plaintiff and his African-American coworkers, referring to African-Americans as “you people,” and making comments such as, “I don't know why blacks come to work.” Even after African-American workers, including Richard

Bowden complained to Jackson saying, “my name isn’t ‘you people,’” Jackson continued to use the term to address African-Americans on a daily basis.

1201. Jackson treated African-American workers like children, chewing them out and humiliating them in front of their coworkers and monitoring them more closely than white workers.

1202. Jackson regularly followed around and badgered Plaintiff and his African American coworkers to get back to work. For example, when Plaintiff and his white coworkers were purchasing safety shoes required for the job from a van-based vendor at NNI, Plaintiff’s coworker turned to Plaintiff and said, “Jackson’s watching you.” Standing a few feet away, Jackson was staring at Plaintiff. When Plaintiff made eye contact, Jackson rushed Plaintiff telling him, “you got to get back to work.” Jackson said nothing to the two other white workers also in line for shoes.

1203. Jackson similarly hounded Plaintiff and his African-American coworkers when they went to the bathroom or took permissible smoke breaks. Jackson was so intent on ensuring that African-American workers were constantly working, that he almost worked Plaintiff Richard Bostic, an African American whom Jackson knew to have diabetes, into a diabetic coma.

1204. In addition to harassing Plaintiff and his African-American coworkers to work, Jackson also gave the more physically demanding job assignments to African-American workers. For example, for an entire week, Plaintiff Payton was assigned to grind steel plates with a forty pound grinder. Plaintiff Payton was on his hands and knees, constantly bent over, manipulating the grinder to grind down the steel plates. Every night Plaintiff went home in pain from the physical demands of the work. When Plaintiff asked for help, wondering why others could not

join him to complete the job faster, Jackson would respond that it was his job to complete alone.

1205. Though African-American workers worked harder than white workers, they were given less overtime hours. From October 2013, when Plaintiff began at NNI, Plaintiff was given less overtime work than his white counterparts.

1206. Approximately two weeks into working for NNI, Plaintiff asked Jackson if overtime work would be available for the upcoming weekend. Jackson responded to Plaintiff and John Phillips, Plaintiff's white coworker who had been hired at the same time as Plaintiff, that no overtime work would be available that weekend. Later, Jackson deceptively returned to Phillips when Plaintiff was not present and asked Phillips to come into work for the weekend. After the weekend, Plaintiff found out from Phillips that Phillips had been given overtime work. Plaintiff confronted Jackson about the discriminatory distribution of overtime work and Jackson responded that he had only wanted a few workers to come in to work over the weekend.

1207. Unsatisfied with Jackson's response, Plaintiff complained to Jones about the discriminatory distribution of overtime work, asking him why he had not received overtime work when his coworker, Phillips, had. Jones responded, "from now on, if you asked to work you should be able to work."

1208. Despite Jones' assurances, Plaintiff continued to receive less overtime work than his white coworkers, including Phillips, missing out on approximately 200 hours of overtime work.

1209. In or around April 2014, Plaintiff was promoted to a fitter position and assigned to work under Eric Tucker, an African-American supervisor.

1210. While working under Tucker's supervision, Plaintiff continued to hear racially

offensive comments on a daily basis, such as workers referring to African Americans as “n*ggers.” For example, while Plaintiff was in the restroom, Plaintiff overheard the racial slur “n*gger.” He reported the incident to Tucker saying, “I heard the n-word going on in [the bathroom].” Though Tucker indicated that he would follow up on the incident, Plaintiff did not hear that the issue was ever investigated or addressed; Plaintiff was not interviewed about the incident. Plaintiff continued to hear coworkers use the the racial slur to refer to African-Americans.

1211. Plaintiff continued to be subjected to race-based treatment under Tucker's supervision. Except for one white worker, Steve Sheg, a make-up supervisor, Tucker supervised an all-African-American crew. Jackson oversaw Tucker and continued to monitor the workers supervised by Tucker. Under Tucker, African-American workers continued to be assigned more work than white workers and were rushed to complete their work. Tucker would often give Plaintiff and his African-American coworkers deadlines earlier than the actual due dates for their work to pressure African-American workers to be more productive.

1212. Jackson regularly instructed Tucker on how to supervise workers, pointing out African-American workers who were not at their jobs, and inquiring into African-American workers' productivity. Jackson would ask Tucker on the number of welds that had been completed by African-American workers, and expected more from African-American workers than the white workers he supervised.

1213. In June 2014, after enduring months of racial harassment and race-based treatment, Plaintiff could no longer stand the hostile work environment at NNI, and gave his two weeks' notice. Soon afterward, Doug Todd approached Plaintiff asking, “did you give your two

weeks' notice?" Plaintiff responded that he had and Todd stated, "you're going to leave here with a target on your back." Plaintiff asked, "what does that mean?" Todd repeated, " you're going to leave here with a target on your back."

Disparate Pay, Promotion, Overtime and Training

1214. Plaintiff Payton began at NNI as a laborer making \$10/hour. Prior to working at NNI, Plaintiff had 27 years of experience working in the military, including 15 years of experience as a laborer.

1215. After Plaintiff's first four months at NNI, Plaintiff was making \$12.50/hour.

1216. In comparison to Plaintiff Payton, white laborers were regularly hired at \$3/hour more. After their initial four months of work, white laborers made approximately \$16.00/hour. For example, Levy Cluts, hired approximately at the same time as Plaintiff Payton with no experience in the trades, made \$16.50/hour after his initial raises.

1217. When Plaintiff was promoted to a fitter, he made approximately \$20/hour. In comparison, entry level white fitters made approximately, \$23/hour.

1218. In addition to being paid less than whites, Plaintiff also received fewer training opportunities. Plaintiff asked Jackson for forklift and tugger training within the first weeks of beginning at NNI. He continued to ask Jackson for the training for the entire seven months he was working under Jackson. Though hired after Plaintiff, in or around late-2013, Chris Barefoot and John Bundy, white laborers, both received forklift training before Plaintiff.

1219. Plaintiff Payton also received less overtime work than his white coworkers. When Plaintiff Payton was hired, Jackson indicated to him that NNI had significant overtime work for laborers. Even so, when Plaintiff Payton asked for overtime work, in or around October of 2013,

he was told that none was available. His white coworker, Phillips, on the same day that Plaintiff Payton was told no overtime work was available, was asked to perform overtime work over the weekend.

1220. Plaintiff complained to both Jackson and Jones about the disparate overtime distribution. Despite his complaints, white workers continued to be assigned overtime work over white workers. Between October 2013 and June 2014, Plaintiff Payton missed out on up to 200 hours of overtime work.

1221. In March 2014, Plaintiff was transferred into a permanent position at NNI and received a benefits package. Pursuant to a new policy, which was enacted after NNI learned it was going to be sued for race discrimination, NNI transitioned new hires into permanent positions. Plaintiff's benefits package is starkly inferior to the benefits package of the group of mostly white workers made permanent before the enactment of the new policy.

RETALIATION

1222. NNI maintains a pattern or practice of retaliating against African-Americans for opposing racial discrimination. NNI has retaliated by subjecting plaintiffs to disparate terms and conditions of employment; subjecting them to discipline in response to their complaints; terminating their employment in retaliation for their complaints; causing plaintiffs to be constructively discharged; and/or intentionally fostering an even more hostile environment after being notified of plaintiffs' allegations (via document preservation letter and September 30, 2014 lawsuit) by refusing to take action to end the discrimination and harassment.

1223. For example, in August 2011, when Willie Kershaw complained about the nature of his work assignments, he was transferred to the supervision of Wayne Jackson. Wayne

Jackson subjected Kershaw's work to greater scrutiny, monitored his bathroom breaks and constantly threatened his job. Other workers indicated to Kershaw that he was targeted for termination by NNI. Within months of his complaint, Kershaw was fired for leaving slag on a weld, a relatively minor infraction for which a Caucasian employee would not have been fired.

1224. In November 2011, [REDACTED] Crawford complained to the Vice President of NNI about the racial discrimination she was experiencing. After her complaint, the conditions under which she was working deteriorated. She was told to sweep up around NNI's building even while her shoulder was injured. Jeff Riley and Wayne Jackson constantly threatened her job. Within two months of complaining, she was terminated by NNI.

1225. NNI failed to adequately investigate her complaints. The supervisors against whom Crawford had lodged her complaints, Jeff Riley and Wayne Jackson, suffered no consequences for their actions.

1226. In April 2012, [REDACTED] Holliman complained to Superintendent Richard Tally that he was subjected to racial harassment by Steve Sheg. NNI failed to adequately investigate the allegations. Holliman's work conditions deteriorated. He was closely scrutinized. He was harassed on a daily basis. His co-workers told him that he was targeted for firing. Holliman could not tolerate the impossible conditions and was constructively discharged.

1227. African-American workers at NNI observed that workers complaining of racial harassment were routinely retaliated against. Jackson boasted that he had fired many African-American workers. Workers that complained of racial harassment were often transferred to Wayne Jackson's supervision and targeted for termination.

1228. After Don Pierce complained about Castle's racism, Plaintiff Pierce began

assigning him painting, sweeping and other laborer work rather than skilled work.

1229. When Plaintiff Robinson complained about discrimination in pay, his work was cut.

1230. After the September 30, 2014 filing of the instant lawsuit, NNI has cut Plaintiff Valentine's hours and overtime opportunities, refused Plaintiff Swain training and promotion opportunities, and permitted and condoned increased racial harassment against African-American workers still employed at NNI.

1231. After the February 11, 2015 filing of the First Amended Complaint, adding multiple Plaintiffs employed by NNI to the lawsuit, more than a fourth suffered retaliation and three Plaintiff's were subjected to retaliatory termination.

1232. When Plaintiff Chris Payton's supervisor became aware that Plaintiff Payton was planning to join the instant lawsuit, his workload increased substantially. He was subjected to increased harassment and ultimately subjected to retaliatory termination under the pretext that he was tagged in a Facebook post taken at NNI. Nick Whitehurst, a coworker, who took photographs in front of Supervisor Clark was not reprimanded let alone fired for taking pictures. In fact, Whitehurst was able to regularly post pictures he took at NNI on social media websites.

1233. Approximately one month after Plaintiff [REDACTED] Joyner filed the instant lawsuit, Plaintiff was subjected to retaliatory termination under the pretext that he had taken a picture at NNI.

1234. Approximately one month after Plaintiff Dennis Smith filed the instant lawsuit, he was subjected to retaliatory termination for accidentally striking a coworker. Plaintiff Smith had never received a write-up prior to his firing. Artis, an employee, who punched Plaintiff Chris

Payton in the face intentionally was rehired to work at NNI.

1235. Plaintiff Willie Nichols received a bogus write-up for insubordination within a month of joining the lawsuit. He had never received a write-up prior to the bringing the lawsuit.

1236. Plaintiff Tourke Hooker was also written up for allegedly being absent or tardy on days he had not been. His coworkers had not been similarly reprimanded.

1237. NNI's actions were intended to chill participation in opposing discrimination by other African-Americans.

Count I

Hostile Work Environment in Violation of 42 USC 1981

1238. All plaintiffs incorporates by reference all preceding paragraphs.

1239. Defendant NNI engaged in illegal discrimination on the basis of race by creating a hostile work environment. Plaintiffs were harassed because of their race in a variety of ways, including but not limited to, being subjected to supervisors' and coworkers' frequent racist remarks, being surrounded by racist symbols, eating and working in segregated facilities, being given more physically demanding work than whites, being monitored more closely than whites, and being harassed while completing daily work tasks.

1240. As a consequence of Defendant's conduct, Plaintiffs suffered severe emotional distress.

1241. Defendant's actions proximately caused Plaintiffs' injuries.

Count II

Disparate Treatment based on Race, in Violation of 42 USC 1981

1242. All Plaintiffs incorporate by reference all preceding paragraphs.

1243. NNI discriminated against Plaintiffs by *inter alia* paying them less than equally or less qualified Caucasians were paid, placing them in lower skilled positions than they were qualified for, assigning them menial tasks more frequently than Caucasian employees, and treating them differently, and worse than similarly situated Caucasian employees in promotion, training and overtime opportunities, among other things.

1244. As a consequence of Defendant's conduct, Plaintiffs suffered economic injury, and emotional distress.

1245. Defendant's actions proximately caused Plaintiffs' injuries.

Count III

**Plaintiffs' Barnett, Edouard, Harris, Theo Pierce, Fields, Swain, Bostic, Robinson, Don
Pierce, [REDACTED] Holliman, Chris Payton, [REDACTED] Joyner, Dennis Smith, Marshall, Chesson,
and Reggie Holliman**

Termination Because of Race in Violation of 42 USC 1981

1246. Plaintiffs Barnett, Edouard, Harris, Theo Pierce, Fields, Swain, Bostic, Robinson, Don Pierce, [REDACTED] Holliman, Chris Payton, [REDACTED] Joyner, Dennis Smith, Marshall, Chesson and Reggie Holliman, incorporate by reference all preceding paragraphs.

1247. Plaintiffs Barnett, Edouard, Reggie Holliman, Theo Pierce, Chris Payton, [REDACTED] Joyner, Dennis Smith and Harris were discharged because of their race.

1248. Plaintiffs [REDACTED] Holliman, Swain, Bostic, Robinson, Fields Marshall, Chesson, and Don Pierce were constructively discharged because of their race, as a result of NNI's deliberate attempts to make Plaintiff's work environment intolerable by *inter alia* creating a

hostile work environment, failing to investigate complaints made to NNI relating to racial harassment, failing to remedy the hostile work environment, and treating them differently in the terms and conditions of employment because of their race.

1249. As a consequence of Defendant's conduct, Plaintiffs suffered economic injury, and emotional distress.

1250. Defendant's actions proximately caused Plaintiffs' injuries.

COUNT IV

Plaintiffs' Crawford, Kershaw, Valentine, Swain, Harris, Don Pierce, Bostic, Chris Payton, [REDACTED] Joyner, Dennis Smith, Hooker, Nichols, Chesson, Marshall and [REDACTED]

Holliman

Retaliation in Violation of 42 USC 1981

1251. Plaintiffs Crawford, Kershaw, Valentine, Swain, Harris, Don Pierce, Bostic, Chris Payton, Dennis Smith, [REDACTED] Joyner, Marshall, Chesson, Hooker, Nichols and [REDACTED] Holliman incorporate by reference all preceding paragraphs.

1252. Plaintiffs Crawford, Kershaw, Valentine, Swain, Harris, Don Pierce, Bostic, Robinson, Chis Payton, Dennis Smith, [REDACTED] Joyner, Hooker, Marshall, Nichols, Chesson and [REDACTED] Holliman engaged in protected activity by complaining about discrimination. After their complaints, NNI retaliated against Plaintiffs in a variety of ways, including but not limited to increasing the racial harassment directed towards them, reducing their work hours, reducing their opportunity to receive overtime, increasing their workload beyond an average worker's ability to manage, transferring them to work outside of their job duties, withholding training and

promotion opportunities, reducing their break time and/or failing to accommodate their disabilities or injuries.

1253. Plaintiffs Crawford, Edouard, Kershaw, Smith, [REDACTED] and Reginald Holliman, Barnett, Valentine, Swain and Pierce collectively engaged in protected activity when a document preservation letter was sent to NNI on January 2, 2013, and a lawsuit filed against NNI on September 30, 2014 on their behalf. NNI was aware of this protected activity. NNI engaged in retaliation by, in response to the protected activity, failing to take action to prevent or end harassment and discrimination in the workplace, thereby making the conduct more acceptable, and sending the message that it would be tolerated. As a foreseeable result it increased.

1254. Plaintiffs Crawford, Chris Payton, Dennis Smith, [REDACTED] Joyner and Kershaw were discharged because of their protected activity. Plaintiffs [REDACTED] Holliman, Swain, Bostic, Robinson, Chesson, Marshall and Don Pierce were constructively discharged because of their protected activity.

1255. As a consequence of Defendant's conduct, Plaintiffs suffered economic injury, and severe emotional distress.

1256. Defendant's actions proximately caused Plaintiffs' injuries.

Count V

Violation of 42 U.S.C. § 2000e, et seq. ("Title VII")

Gender Discrimination

1257. Plaintiff [REDACTED] Crawford incorporates by reference all preceding paragraphs.

1258. On or about November 13, 2012, Plaintiff Crawford filed a Charge of Discrimination with the EEOC, alleging that she was denied equivalent restroom facilities as

men, causing a medical condition, that she was fired for complaining about the discrimination, and given a bad job reference, in retaliation for protected activity.

1259. On or about August 29, 2014, Plaintiff Crawford received a Notice of Right to Sue from the EEOC. The initial Complaint was filed less than 90 days from receipt of the Notice of Right to Sue.

1260. NNI discriminated against Plaintiff [REDACTED] Crawford because of her gender. She was denied equivalent restroom facilities as men, causing a medical condition.

1261. The discrimination caused her physical and emotional pain and suffering.

1262. Defendant's actions proximately caused Plaintiff's injuries.

Count VI

Violation of 42 U.S.C. § 2000e, et seq. ("Title VII")

Retaliation

1263. Plaintiff [REDACTED] Crawford incorporates by reference all preceding paragraphs.

1264. Plaintiff engaged in protected activity when she complained about gender discrimination to the Vice President and filed a Charge of Discrimination.

1265. Because of her complaints, NNI retaliated against her: the conditions under which she was working deteriorated. She was told to sweep up around NNI's building even while her shoulder was injured. Jeff Riley and Wayne Jackson constantly threatened her job. Within two months of complaining, she was terminated by NNI. Further retaliating against her, NNI gave Plaintiff [REDACTED] Crawford a bad job reference.

1266. The retaliation caused her emotional pain and suffering, and economic injury.

1267. Defendant's actions proximately caused Plaintiff's injuries.

Count VII

Violation of 29 U.S.C. § 2601 et seq. (“FMLA”)

1268. Plaintiff Dennis Smith incorporates by reference all preceding paragraphs.

1269. NNI is an “employer” as defined by FMLA, 29 U.S.C. §2611(4), and Plaintiff Smith is an “eligible employee” as defined by FMLA, 29 U.S.C. §2611(2).

1270. Plaintiff Smith was entitled to leave pursuant to FMLA, 29 U.S.C. §2612(a)(1) and was denied leave to which he was entitled.

1271. Plaintiff Smith was entitled to the restoration of his position pursuant to FMLA, 29 U.S.C. §2614(a)(1) and was denied the restoration of his position or an equivalent position as prescribed by the FMLA.

1272. Plaintiff has suffered a loss of wages, benefits, monetary expenses and other damages.

1273. Defendant's actions proximately caused Plaintiff's damages.

JURY DEMAND

1274. Plaintiffs demands a trial by jury for all issues in this action for which a jury is available.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court grant the following relief:

A. Declare Defendant's conduct complained of herein to be in violation of the Plaintiffs' rights as secured by 42 U.S.C. §1981, 29 U.S.C. § 2601 et seq. and 42 U.S.C. §2000e;

B. Award the Plaintiffs compensatory damages to be determined by the jury at the time of trial;

- C. Award the Plaintiffs back pay and front pay to be determined at the time of trial;
- D. Award the Plaintiffs punitive damages to be determined by the jury at the time of trial;
- E. Award the Plaintiffs reasonable attorneys' fees and costs, including the fees and costs of experts, incurred in prosecuting this action; and
- F. Grant such further relief as the Court deems necessary and proper.

Dated: May 4, 2015

Respectfully submitted,

By: /s/ James H. Shoemaker, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2015, I will electronically file the foregoing Second Amended Complaint with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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