

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION**

)	
Selynda Middlebrook, Stephanie Stevens,)	
and Luther Gray , on behalf of his minor)	
daughter A.G. ,)	
Plaintiffs,)	Case No.: 20-cv-4214
)	
v.)	
)	
McDonald’s Corporation, McDonald’s)	EQUITABLE RELIEF IS SOUGHT
USA, LLC, and Gendco, Inc. ,)	
)	
Defendants.)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs Selynda Middlebrook, Stephanie Stevens, and Luther Gray, on behalf of his minor daughter A.G., state as their complaint against Defendants McDonald’s Corporation, McDonald’s USA, LLC, and Gendco, Inc. as follows:

INTRODUCTION

1. Plaintiffs (defined to include Luther Gray’s minor daughter A.G.) bring this civil rights action to seek redress for racial harassment, race discrimination, and retaliation at the hands of their joint employers, McDonald’s Corporation, McDonald’s USA, LLC (together, “McDonald’s Corporate Defendants”), and Gendco, Inc.

2. Plaintiffs are Black employees of McDonald’s, who work or worked at the McDonald’s restaurant located at 2950 11th Street, Rock Island, Illinois (“Eleventh Street McDonald’s Restaurant”). Plaintiffs’ white General Manager regarded them and other Black workers and customers as “ghetto,” and told them that to their faces. Other managers also stereotyped Plaintiffs and Black workers generally as “lazy” or “smelly.”

3. The white General Manager assigned Plaintiffs and other Black employees to work fewer hours than non-Black workers—so few hours that they could not afford to support themselves and their families. Plaintiff Stevens dared to complain about her white General Manager’s mistreatment of Plaintiff Middlebrook, and was fired for having the impudence to speak out. Middlebrook too was forced out by the racially hostile work environment, reduction in hours, disparate discipline, and the knowledge that she could not get ahead as a Black woman working for McDonald’s.

4. This is not a new story.

5. McDonald’s has long treated Black people as “ghetto,” and denied them the opportunity to make a decent living. For example, a recent race discrimination lawsuit filed by Black franchisees outlines McDonald’s sordid history of discrimination against Black business people:¹ That complaint alleges Black franchise operators have consistently been steered to restaurants in high-crime, poverty-stricken areas. In 1984 Black franchisee owners complained that they were “confined to ghetto areas.” Again in the 1990’s, McDonald’s admitted that “for business reasons we thought valid at the time, the Company has placed many Black Franchisees in restaurants that have not allowed them to achieve the same level of economic success as their peers.” The complaint further alleges that under current leadership McDonald’s has continued its practice of discriminating against Black franchise owners, including by “confining” them to “inner cities or urban areas with higher costs” for security and maintenance. The complaint alleges that McDonald’s “discriminatory practices and policies” led to a “cash flow gap between Black franchisees in comparison to White franchisees” and a “mass exodus” of Black franchisees from McDonald’s. Black franchisees are being forced out of McDonald’s in record numbers.

¹ *Crawford, et al v. McDonald’s USA, LLC*, No.1:20-cv-05132 (N.D. Ill. August 31, 2020).

6. Even when Black employees rise to the level of executive leadership at McDonald's Corporate Defendants, they report differential treatment and demotion for speaking out.² A recent lawsuit alleges that, even at the top of the company, Black employees are passed over for less-qualified white employees, unjustly demoted, subjected to racial slurs without recourse, and retaliated against by McDonald's when they advocate on behalf of Black franchisees or protest the disproportionate reduction in Black senior executives. The predictable result of this pervasive racism is that the number of Black executives at the level of vice president or higher fell from 42 to seven between 2014 and 2019.

7. Racism extends from the top of the company to the bottom. McDonald's restaurants have been accused of egregious, racist misconduct towards their crew members. For example, a corporate owned and operated McDonald's restaurant in Florida is accused of ridiculing Black customers, subjecting Black workers to differential, and discriminatory, discipline and time off policies, and then retaliating against those Black workers who dared to complain.³ A franchise McDonald's restaurant in Virginia is alleged to have fired Black employees because a manager concluded "there were too many black people" at certain restaurants, and, as here, referred to Black workers as "ghetto."⁴ Similarly, Black workers at McDonald's franchise restaurants in North Carolina and Los Angeles have filed charges with the federal Equal Employment Opportunity Commission, alleging that McDonald's and its franchise restaurants failed to hire workers because they were Black, or that management called Black workers "ghetto" or said

² *Guster-Hines v. McDonald's USA, LLC*, No. 1:20-cv-00117 (N.D. Ill. Jan. 7, 2020).

³ *Scott v. McDonald's Corporation*, No. 8:20-cv-01638-VMC-CPT (M.D. Fla. July 17, 2020).

⁴ Wesley Lowery, *Fired McDonald's Workers Say They Were Dismissed for Being Minorities*, Wash. Post (Jan. 22, 2015), <https://www.washingtonpost.com/news/post-nation/wp/2015/01/22/fired-mcdonalds-workers-say-they-were-dismissed-for-being-minorities/>.

they wouldn't hire Black workers "because they are lazy." McDonald's Corporate Defendants did nothing to remedy these racist and hostile work environments for Black employees. Black Crew Members too are being forced out of McDonald's.

8. The current situation at the Eleventh Street McDonald's Restaurant is thus not an isolated incident, but is instead symptomatic of a pattern or practice of McDonald's corporate leadership's failure to address pervasive racism and anti-Black sentiment throughout the organization, from executives in the C-suite to individual managers at restaurants throughout the country, resulting in a concomitant decline in Black franchisees, Black executives, and Black employees in restaurants nationwide.

9. And yet McDonald's pays lip service to civil rights through glossy public relations campaigns. For example, on June 3, 2020, McDonald's launched an advertising campaign that states: "Today we stand with Black communities across America. Which is why we're donating to the National Urban League and the NAACP. We do not tolerate inequity, injustice, or racism. Black lives matter." While donating to worthy civil rights organizations to garner favorable publicity, McDonald's has failed to address racism in its own stores.

10. The facts alleged herein demonstrate that McDonald's does not actually stand with its own Black workers, but instead subjects them to intentional race discrimination, and punishes them when they dare to complain about blatantly unequal treatment.

11. While not unique, the experiences of Ms. Middlebrook, Ms. Stevens, and A.G. are egregious examples of the serious harm that occurs when a corporation fails to take responsibility for the discriminatory conduct of its managers, and subjects Black workers to pervasive and intentional racial discrimination.

12. Plaintiffs file this action to secure and vindicate their right to be free from racially discriminatory treatment in the terms and conditions of their employment contract, under the Civil Rights Act of 1866, 42 U.S.C. §1981 (“Section 1981”). The conduct complained of also violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (“Title VII”) and the Illinois Human Rights Act, 775 ILCS 5/2-102 & 5/6-101 (the “IHRA”). Plaintiffs are concurrently filing charges of discrimination with the Equal Employment Opportunity Commission and the Illinois Department of Human Rights, and expect to amend this complaint to add Title VII and IHRA claims after they have exhausted their administrative remedies.

13. To remedy McDonald’s violation of their civil rights, Plaintiffs seek back pay, front pay, and other damages to compensate them for the economic losses and emotional trauma caused by the race discrimination and retaliation, reinstatement of Ms. Middlebrook and Ms. Stevens to their rightful positions, and equal hours to those afforded non-Black employees. Plaintiffs also seek injunctive relief forcing McDonald’s to comply with this nation’s civil rights laws, and to respect the rights of their Black workers.

PARTIES

14. Plaintiff Luther Gray brings this action as the guardian of and on behalf of his minor daughter A.G. A.G. is a 17-year-old Black woman and a resident of Rock Island, in Rock Island County, Illinois. A.G. currently works at the 2950 11th Street, Rock Island, McDonald’s Restaurant as a crew member.

15. Plaintiff Selynda Middlebrook is a 20-year old Black woman and a resident of Rock Island, in Rock Island County, Illinois. Ms. Middlebrook worked at the 2950 11th Street, Rock Island, McDonald’s Restaurant as a crew member until in or about the week of July 20, 2020.

16. Plaintiff Stephanie Stevens is a 47-year old Black woman and a resident of Rock Island, in Rock Island County, Illinois. Ms. Stevens worked at the 2950 11th Street, Rock Island, McDonald's Restaurant as a crew member until on or about July 22, 2020.

17. Defendant McDonald's Corporation is a Delaware corporation that has its principal place of business in Chicago, Illinois. It operates and franchises McDonald's restaurants in all 50 states.

18. Defendant McDonald's USA, LLC ("McDonald's USA"), is a Delaware limited liability company that has its principal place of business in Chicago, Illinois. It operates and franchises McDonald's restaurants in all 50 states. McDonald's USA is a wholly-owned subsidiary of McDonald's Corporation. (Defendants McDonald's Corporation and McDonald's USA are referred to together as the "McDonald's Corporate Defendants.")

19. Defendant Gendco, Inc. ("Gendco") is an Illinois corporation that has its principal place of business in Rock Island, Illinois and owns and operates the 2950 11th Street, Rock Island, McDonald's Restaurant on behalf of the McDonald's Corporate Defendants. The owner/operators of the Eleventh Street McDonald's Restaurant are Trina Gendco, President of Gendco, and Dennis Gendco, Secretary of Gendco.

20. The McDonald's Corporate Defendants contract with numerous franchisees that jointly operate McDonald's restaurants throughout Illinois, including Defendant Gendco. The 2950 11th Street, Rock Island, McDonald's Restaurant is a franchise of McDonald's Corporate Defendants.

21. The McDonald's Corporate Defendants and Gendco are together referred to as "Defendants" or "McDonald's."

22. The McDonald's Corporate Defendants tightly control the working conditions of employees at McDonald's franchised restaurants, including at the Eleventh Street McDonald's Restaurant, with respect to Human Resources policies, the physical work environment, required worker and manager training, and discipline and firing of workers, among others.

23. Together, all Defendants jointly operated the Eleventh Street McDonald's Restaurant during the relevant period and jointly employed all workers there, including Plaintiffs and Plaintiffs' managers.

24. Gendco acts as an agent of McDonald's USA and McDonald's Corporation, and/or the McDonald's Corporate Defendants hold out Gendco as their agent.

25. Based on representations from the McDonald's Corporate Defendants and Defendant Gendco, Plaintiffs reasonably believed that they were applying to work for, and worked for, the global McDonald's corporation headquartered in Illinois, that is, McDonald's USA and McDonald's Corporation. They wore a McDonald's uniform, served McDonald's products, and followed McDonald's policies and practices. They were not informed that only Defendant Gendco was their employer. Based on representations from the McDonald's Corporate Defendants and Defendant Gendco, Plaintiffs reasonably believed that they were going to work for the McDonald's Corporate Defendants, a large corporate employer with adequate resources, policies, and training dedicated to Human Resources issues, including the prevention and redress of racial discrimination.

26. McDonald's USA and McDonald's Corporation are liable for the acts of Gendco because Gendco was the actual and/or apparent agent of McDonald's USA and McDonald's Corporation.

JURISDICTION AND VENUE

27. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331 (federal question) and 1343(a) (civil rights and elective franchise) based upon Plaintiffs' claims under 42 U.S.C. § 1981.

28. Venue is proper in the Central District of Illinois, Rock Island Division under 28 U.S.C. § 1391 because a substantial part of the acts and omissions complained of occurred in the Eleventh Street McDonald's Restaurant, which is located in this District and served by this Division.

FACTUAL ALLEGATIONS

Racial Discrimination at the Eleventh Street McDonald's Restaurant

29. The General Manager, who is white, and other managers, who are Latina, at the Eleventh Street McDonald's Restaurant have engaged in severe or pervasive harassment of Black employees and customers.

30. For example, on multiple occasions, the General Manager, in the presence of employees, has referred to Black customers and employees as "ghetto."

31. On multiple other occasions, a Latina manager stated in the presence of employees that the Black employees were "lazy," and that the Latino employees are the ones who do all the work.

32. The General Manager and a Latina manager also stated in the presence of other employees that a Black worker smelled and that they did not want her to come into work.

33. The General Manager has also displayed favoritism toward white employees over Black employees in terms of discriminatory enforcement of dress codes and discipline.

34. In 2020, the General Manager discriminatorily reduced the number of shifts and hours of work of many Black workers, including A.G. and Ms. Middlebrook, resulting in a substantial loss of income.

35. On information and belief, most or all white or Latino employees were not subjected to equivalent reductions in hours.

36. For example, in the Spring of 2020, Ms. Middlebrook began receiving fewer shifts and hours per week. Ultimately Ms. Middlebrook was left with only one shift of approximately four hours of work per week. Ms. Middlebrook could not support herself and her new baby on so few hours of work per week.

37. A.G.'s hours were also substantially reduced over the summer of 2020, leaving her in some weeks with only a few shifts per week of a few hours each.

38. On information and belief, other Black employees' hours were also substantially reduced over the Spring and Summer of 2020, while the Eleventh Street McDonald's Restaurant did not make a comparable reduction in the hours of white and Latino employees.

39. Defendants reduced the Black employees' hours, including Plaintiffs' hours, because those employees are Black. To the extent any non-Black employees' hours were reduced, Defendants reduced the Black employees' hours, including Plaintiffs' hours, more than non-Black employees' hours were reduced, because Plaintiffs and the other Black employees are Black.

40. For example, in or about the end of June or beginning of July 2020, the General Manager sent a text message to store managers that was subsequently circulated among crew member employees. In that text message, the General Manager listed 10 workers, all but two of whom were Black, and directed that they would not be allowed extra hours of work. The text

message stated that the listed workers had a “wrong... attitude” and were “not . . . able to do their simple tasks.” A.G. and Ms. Middlebrook were among the Black employees targeted by the General Manager’s text message.

41. At around the same time in July 2020, another manager told A.G. that the General Manager intentionally targeted the employees on the evening shift for cuts in hours because most of the employees on the evening shift were Black.

42. The General Manager’s antipathy toward Black employees also resulted in her terminating Ms. Stevens’ employment with McDonald’s, and drove Ms. Middlebrook to walk away from her job in hope of finding more hours and a non-racially-hostile work environment elsewhere.

43. On or about July 21, 2020, in the presence of restaurant employees, the General Manager referred to Ms. Middlebrook as a “waste of space” and said that she “shouldn’t even exist.”

44. On or about July 22, 2020, a crew member told Ms. Stevens about the General Manager’s comments regarding Ms. Middlebrook, including the comment that Ms. Middlebrook “shouldn’t even exist,” because Ms. Stevens is Ms. Middlebrook’s aunt. Later that day, Ms. Stevens protested to the General Manager that she should not speak about employees in such a discriminatory and demeaning manner. The General Manager then terminated Ms. Stevens’s employment on the spot.

45. On information and belief, non-Black employees were not terminated for voicing their opinions, or discussing employment matters or other employees, with the General Manager. On information and belief, the General Manager terminated Ms. Stevens’s employment with

McDonald's because she is Black, and/or for opposing the General Manager's racially discriminatory statements about Ms. Middlebrook.

46. On or about July 22 or July 23, 2020, Ms. Stevens told Ms. Middlebrook about being fired, and about the General Manager's comments concerning Ms. Middlebrook. After learning about the General Manager's termination of her aunt and hostile comments about her, Ms. Middlebrook feared the General Manager's harassment of her would only escalate, and that the General Manager would never restore her work hours and the income she needed to support herself and her new baby. As a result of the reduction in hours, differential and discriminatory discipline, and hostile work environment, Ms. Middlebrook was forced to quit her job at the Eleventh Street McDonald's Restaurant.

47. As a result of Defendants' discrimination, Plaintiffs suffered severe emotional distress, including anxiety and stress over the loss of income and employment and the indignity of being the subject of Defendants' unlawful discrimination.

Corporate Structure: Joint Employers and Apparent Agency

48. As with all McDonald's franchise stores, the Eleventh Street McDonald's Restaurant is operated pursuant to strict requirements imposed by the McDonald's Corporate Defendants.

49. The McDonald's Corporate Defendants operate, franchise, and service a system of McDonald's restaurants that prepare, assemble, package, and sell a limited menu of value-priced foods under the "McDonald's System." The McDonald's System is a concept of restaurant operations that includes, among other things, certain rights in trademarks, real estate, marketing, and operational information designed to promote uniformity of operations.

50. McDonald's franchisees are required to enter into a franchise agreement with the McDonald's Corporate Defendants. On information and belief, the McDonald's Corporate

Defendants enter into the same, or materially the same, franchise agreement with each of its new franchises operating standalone stores within the United States.

51. The McDonald's Corporate Defendants generally grant franchisees a right to operate a McDonald's restaurant at a specific location for a specific period of time, usually 20 years.

52. The McDonald's Corporate Defendants exercise substantial control over their franchisees, including Defendant Gendco, through the franchise agreement.

53. On information and belief, the McDonald's Corporate Defendants have a franchise agreement with Gendco and/or with its owner/operators Trina and Dennis Gendco, that requires Gendco to strictly adhere to the McDonald's System, including, *inter alia*, by complying with all standards, business policies, practices, and procedures prescribed by the McDonald's Corporate Defendants; using formulas, methods, and policies relating to day-to-day operations, inventory, accounting, management, advertising, and recruiting that are set forth in detailed manuals developed and provided by the McDonald's Corporate Defendants; using corporate-supplied or approved equipment and food products; submitting to regular comprehensive site inspections and computer monitoring; and sharing a percentage of gross sales revenues with the McDonald's Corporate Defendants.

54. On information and belief, the franchise agreements that the McDonald's Corporate Defendants maintain with Gendco vest in the McDonald's Corporate Defendants significant control over restaurant operations, working conditions, personnel training and discipline, and the finances of franchisees' restaurants, and give the McDonald's Corporate Defendants unlimited and unrestricted authority to inspect restaurants to monitor workplace conditions, including labor conditions, and to ensure compliance with the standards and policies of the McDonald's Corporate Defendants.

55. The McDonald's Corporate Defendants maintain national franchise standards to which all of their franchisees are expected and required to adhere, and that affect almost every aspect of the restaurants' functioning, including practices and policies affecting crew members' labor conditions, including recruiting, training, and day-to-day tasks and supervision. Upon information and belief, Gendco is subject to these national franchise standards.

56. On information and belief, the McDonald's Corporate Defendants evaluate and grade all franchisees, including Gendco, on whether they have satisfied their franchise standards, including standards governing the recruitment, development, training, and retention of qualified personnel. On information and belief, McDonald's Corporate Defendants impose very specific workplace policies that must be followed by all workers, down to minute details about day to day tasks. On information and belief, McDonald's Corporate Defendants monitor the franchisee's operations at the micro-level to ensure that McDonald's policies are carried out, including through detailed on-site inspections, at which McDonald's corporate representatives may identify specific workers who should be disciplined. On information and belief, McDonald's Corporate Defendants conduct regular in-store inspections of the Eleventh Street McDonald's Restaurant.

57. McDonald's Corporate Defendants may impose penalties on franchisees that deviate from these prescribed standards or that otherwise fail to fulfill their obligations under the franchise agreement, up to and including termination of the franchise agreement.

58. The McDonald's Corporate Defendants significantly restrict the business autonomy of their franchisees, including Defendant Gendco, and their ability to make independent decisions based upon their own assessment of what is best for their particular business, by

requiring compliance with the myriad standards they impose on all their franchisee-owned restaurants as well as on their own corporate-owned restaurants.

59. On information and belief, the McDonald's Corporate Defendants provide franchisees with the McDonald's Operations and Training Manual, which franchisees, including Gendco, must use in operating their restaurants. The manual mandates operational procedures, business practices and policies, bookkeeping and accounting procedures, and methods of inventory control, among other things.

60. According to public filings, the McDonald's Corporate Defendants generate substantial revenue by charging franchised restaurants a variety of fees, in addition to rent, including a monthly service fee equivalent to 4% of gross sales revenues and fees for advertising of at least 4% of gross sales, payable to local advertising cooperatives and McDonald's national advertising fund, along with various other fees.

61. The McDonald's Corporate Defendants exercise control over hiring, including by maintaining a nationwide website to which all applicants apply to work at any McDonald's, including the Eleventh Street McDonald's Restaurant.

62. The McDonald's Corporate Defendants require all owner/operators and all General Managers working at franchise restaurants to attend "Hamburger University," operated by the McDonald's Corporate Defendants, including, on information and belief, the owner/operators of Defendant Gendco and the General Manager who works at the Eleventh Street McDonald's Restaurant.

63. Together with Defendant Gendco, the McDonald's Corporate Defendants jointly employed Plaintiffs and Plaintiffs' managers.

64. The McDonald's Corporate Defendants are the principals of their franchisee-agents Gendco with respect to Plaintiffs' employment claims.

65. When Plaintiffs applied to work at the Eleventh Street McDonald's Restaurant, they believed that they were applying to work for the McDonald's Corporate Defendants, and/or that the McDonald's Corporate Defendants would protect them from unlawful on-the-job behavior such as racial discrimination.

66. Plaintiffs continued to believe that they were working for the McDonald's Corporate Defendants throughout the time of their employment.

67. Plaintiffs believed they were working for the global McDonald's corporation (that is, McDonald's Corporate Defendants) because everything at the Eleventh Street McDonald's Restaurant—including the signs, the logos on the products, the workplace documents, and their uniforms—says “McDonald's,” and because Plaintiffs served McDonald's products and followed McDonald's policies and practices.

68. Plaintiffs were unaware of and were not informed by Defendants how the McDonald's franchising system works; and no one told them that they were hired to work solely for Defendant Gendco. Plaintiffs did not know anything about Gendco when they applied to work at McDonald's, when they were hired to work at McDonald's, or throughout their employment, other than the unexplained reference to Gendco on their paystubs. The owner/operators of the Gendco franchise, Trina and Dennis Gendco, publicly hold themselves out to be employed by McDonald's Corporation, and Plaintiffs understood that the owner/operators of the Eleventh Street McDonald's Restaurant were the agents of, and supervised by and accountable to, the McDonald's Corporate Defendants.

69. To the extent that Plaintiffs were misled by conduct of Gendco, including its owner/operator and managers, into believing that they were employees of McDonald's Corporate Defendants, or that Gendco was an agent of the McDonald's Corporate Defendants, this is because the McDonald's Corporate Defendants, which exercise considerable control over their franchisees, including Defendant Gendco, failed to ensure that Gendco did not hold itself out as an agent of the McDonald's Corporate Defendants, or otherwise lead Plaintiffs to believe that they were employed by the McDonald's Corporate Defendants or an agent thereof.

70. The McDonald's Corporate Defendants' involvement, among other things, in the operations of the Eleventh Street McDonald's Restaurant, including by conducting in-store inspections, setting policies, and providing logos and branding, also led Plaintiffs to reasonably believe that the Eleventh Street McDonald's Restaurant was operating and was authorized to operate on behalf of the McDonald's Corporate Defendants.

71. Plaintiffs' understanding that they would be working for the McDonald's Corporate Defendants or an agent thereof was one of the reasons Plaintiffs applied and chose to work at the Eleventh Street McDonald's Restaurant. Plaintiffs expected certain benefits from working for what they understood to be a large, stable corporate employer such as McDonald's Corporate Defendants, including that the employer had adequate resources and policies dedicated to Human Resources issues, to complying with employment laws, and to protecting employees from racial discrimination. Plaintiffs did not understand that the McDonald's Corporate Defendants disclaimed all responsibility for protecting them from racial discrimination.

72. A reasonable worker would believe that the McDonald's Corporate Defendants were responsible for preventing and remedying on-the-job racial discrimination at the Eleventh Street

McDonald's Restaurant. Plaintiffs reasonably relied on that belief in deciding to apply to and to work at the Eleventh Street McDonald's Restaurant.

73. McDonald's USA and McDonald's Corporation are liable for the acts of Defendant Gendco because Gendco was the actual or apparent agent of McDonald's USA and McDonald's Corporation.

Inadequate Policies and Procedures to Prevent Race Discrimination

74. The top-down systemic racism evident in McDonald's C-suite, as evidenced by recent allegations by Black executives and Black franchisees, reaches down to the restaurant level, where individual managers and franchisees are not held accountable for engaging in, and failing to prevent, discrimination on the basis of race.

75. On information and belief, the training that McDonald's Corporate Defendants provide and provided to owner/operators and to restaurant General Managers, including the Hamburger University training provided to owner/operators of Defendant Gendco and the General Manager who works at the Eleventh Street McDonald's Restaurant, fails to adequately train those General Managers not to discriminate against employees on the basis of race.

76. On information and belief, the policies, procedures, training, guidelines, and/or practices provided by the McDonald's Corporate Defendants to their franchisees, including Defendant Gendco, are insufficient to prevent racial discrimination against, harassment of, and retaliation toward Plaintiffs.

CAUSES OF ACTION

**COUNT ONE
VIOLATION OF 42 U.S.C. § 1981
Discrimination on the Basis of Race
(Brought by All Plaintiffs Against All Defendants)**

77. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this Complaint as though set out here word for word.

78. Defendants intentionally engaged in discriminatory conduct because of Plaintiffs' race.

79. In particular, Defendants reduced the hours Plaintiffs A.G. and Middlebrook were scheduled to work, but did not reduce and/or did not equally reduce the hours that non-Black employees at the Eleventh Street McDonald's Restaurant were scheduled to work.

80. Defendants reduced Plaintiffs' scheduled hours, and/or reduced Plaintiffs' scheduled hours more than they reduced the scheduled hours of non-Black employees, because Plaintiffs are Black.

81. Defendants imposed differential discipline on the basis of race, and retaliated against those who spoke out against racial discrimination. In particular, Defendants terminated Ms. Stevens from employment because she is Black, and because she spoke up on behalf of her niece, Ms. Middlebrook, and against the racist comments and differential reduction of hours to which the General Manager subjected Ms. Middlebrook. On information and belief, similarly situated non-Black employees were not terminated for speaking up on behalf of another employee.

82. Defendants' discriminatory conduct toward Black employees, including the reduction of hours, differential discipline, and hostile work environment for Black employees, forced Ms.

Middlebrook to quit her job at McDonald's. She was constructively discharged because of her race, Black.

83. Despite having actual and constructive knowledge of the racial harassment of and discrimination against Plaintiffs, Defendants failed to take immediate and appropriate corrective action to stop it.

84. Defendants thus violated Plaintiffs' right to make and enforce contracts and receive the full and equal benefit of the law as guaranteed by 42 U.S.C. § 1981.

85. Defendants knew or should have known that their actions constituted unlawful race discrimination and showed malicious and/or reckless disregard for Plaintiffs' statutorily protected rights.

86. The McDonald's Corporate Defendants are the principals of their agent Defendant Gendco, and are vicariously liable, because they control Gendco's employment policies, procedures, training, guidelines, and/or practices, including those regarding racial discrimination.

87. The McDonald's Corporate Defendants are liable for the acts of Defendant Gendco because their involvement in and control over the operations of the Eleventh Street McDonald's Restaurant, along with the fact that the McDonald's Corporate Defendants permitted the use of their logos, branding, and trademarks at the restaurant without adequate disclaimers or explanations, and allowed Gendco and its owner/operators to hold themselves out as agents of McDonald's, made Defendant Gendco the ostensible and apparent agent of the McDonald's Corporate Defendants, and Plaintiffs reasonably relied on that apparent and ostensible agency to their detriment.

88. As a direct result of Defendants' discriminatory acts, Plaintiffs are entitled to damages including, but not limited to:

- a. Past and future lost wages and benefits;
- b. Compensation for past and future physical and emotional distress;
- c. Punitive damages;
- d. Attorneys' fees and costs; and
- e. Pre-judgment interest.

89. As a direct result of Defendants' discriminatory acts, Plaintiffs are also entitled to declaratory and injunctive relief, as set forth in detail in the Prayer for Relief.

COUNT TWO
VIOLATION OF 42 U.S.C. § 1981
Retaliation
(Brought by Plaintiff Stevens Against All Defendants)

90. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of this Complaint as though set out here word for word.

91. Plaintiff Stevens engaged in activities protected under 42 U.S.C. § 1981 and other civil rights statutes when she complained to the General Manager regarding racist conduct occurring at the Eleventh Street McDonald's Restaurant.

92. Defendants violated 42 U.S.C. § 1981 when they, through the General Manager, took materially adverse employment action against Plaintiff Stevens by firing her with the purpose of retaliating against her because of her participation in protected activities and opposition to race discrimination.

93. Defendants knew or should have known that their actions constituted unlawful retaliation and showed malicious and/or reckless disregard for Plaintiff Stevens' statutorily protected rights.

94. The McDonald's Corporate Defendants are the principals of their agent Defendant Gendco, and are vicariously liable, because they control Gendco's employment policies,

procedures, training, guidelines, and/or practices, including those regarding racial discrimination and retaliation.

95. The McDonald's Corporate Defendants are liable for the acts of Defendant Gendco because their involvement in and control over the operations of the Eleventh Street McDonald's Restaurant, along with the fact that the McDonald's Corporate Defendants permitted the use of their logos, branding, and trademarks at the restaurant without adequate disclaimers or explanations, and allowed Gendco and its owner/operators to hold themselves out as agents of McDonald's, made Defendant Gendco the ostensible and apparent agent of the McDonald's Corporate Defendants, and Plaintiff Stevens reasonably relied on that apparent and ostensible agency to her detriment.

96. As a direct result of McDonald's retaliatory acts, Plaintiff Stevens is entitled to damages including, but not limited to:

- a. Past and future lost wages and benefits;
- b. Compensation for past and future physical and emotional distress;
- c. Punitive damages;
- d. Attorneys' fees and costs; and
- e. Pre-judgment interest.

97. As a direct result of McDonald's retaliatory acts, Plaintiff Stevens is entitled to declaratory and injunctive relief, as set forth in detail in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court provide them with the following relief:

- A. Judgment in favor of Plaintiffs and against Defendants for violation of 42 U.S.C. § 1981;

- B. A declaration that the actions of Defendants constitute unlawful race discrimination;
- C. A declaration that the actions of Defendants constitute unlawful retaliation;
- D. An injunction requiring Defendants to remedy the Section 1981 violations described herein, and to prevent future violations, by, among other things:
 - a. Reinstating Plaintiffs Stevens and Middlebrook to employment at the Eleventh Street McDonald's Restaurant;
 - b. Reinstating Plaintiffs to their normal schedules before they were unlawfully reduced by Defendants and enjoining Defendants from reducing Plaintiffs' hours below those of the hours assigned to non-Black employees;
 - c. Instructing the managers of the Eleventh Street McDonald's Restaurant that racial discrimination and retaliation towards Black employees will not be tolerated and prohibiting the managers from engaging in such conduct;
 - d. Training managers and crew members that race discrimination and retaliation is prohibited and will not be tolerated at McDonald's;
 - e. Implementing a safe reporting mechanism including multiple channels for reporting race discrimination and retaliation, and adequately communicating that reporting mechanism to all McDonald's employees; and
 - f. Implementing accountability measures to insure that managers do not discriminate against Black employees;
- E. Back pay and front pay, together with interest;
- F. An amount that the Court or jury determines to be fair, just, and adequate compensation for the additional damages and emotional distress that Plaintiffs have sustained, past and future, together with interest;

- G. An award of punitive damages that the Court or jury determines to be fair and sufficient to punish, penalize, and/or deter Defendants from the harmful acts alleged herein;
- H. An award of reasonable attorneys' fees and costs; and
- I. Any other relief that the Court deems appropriate.

JURY DEMAND

Plaintiffs hereby demand a trial by jury as to all those issues so triable as of right.

Dated: October 13, 2020

Respectfully Submitted,

By: /s/ George A. Luscombe III
George A. Luscombe III

Barry M. Bennett (SBN 6194493)
George A. Luscombe, III (SBN 6290097) (Lead Counsel)
DOWD, BLOCH, BENNETT, CERVONE, AUERBACH & YOKICH
8 S. Michigan Avenue, 19th Floor
Chicago, Illinois 60603
Telephone: (312) 480-0840
Facsimile: (312) 372-6599
E-mail: bbennett@laboradvocates.com
gluscombe@laboradvocates.com
efile@laboradvocates.com

Eve H. Cervantez (*application for admission pending*)
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, California 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064
E-mail: ecervantez@altshulerberzon.com

Attorneys for Plaintiffs