

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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CHRISTOPHER POLICARD and DUANE DAVIS, :

Index No.: 26763 / 2015 E

Plaintiffs, :

SUMMONS

-v.- :

KERING AMERICAS, INC., :
ALEXANDER MCQUEEN TRADING AMERICA, INC, :
ALEXANDER MCQUEEN TRADING LTD., :
CATHERINE FLYNN, GEORGINA COLEMAN, :
SAMANTHA BOYKIN and SIDRA CASTOR :

Venue is based on
Plaintiff Duane Davis's place of
residence: 4349 Matilda Avenue,
Bronx, NY 10466

Defendants. :

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To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the attached Verified Complaint of Plaintiffs, CHRISTOPHER POLICARD and DUANE DAVIS, dated December 9, 2015, a true and accurate copy of which is served upon you herewith. You must serve your Verified Answer upon the undersigned attorneys either (1) within twenty days after service of this Summons and the attached Verified Complaint, exclusive of the day you received it, if you were served personally in the State of New York, or (2) within thirty days after service, exclusive of the day you were received it, if you were not served personally in New York State.

PLEASE TAKE NOTICE that should you fail to serve your Verified Answer within the time prescribed under applicable law, Plaintiffs, CHRISTOPHER POLICARD and DUANE DAVIS, will take judgment against you by default for the relief demanded in the Verified Complaint pursuant to section 3215 of the New York Civil Practice Law and Rules.

Dated: New York, NY
December 9, 2015

Yours, etc.

EISENBERG & BAUM, LLP

By: 

Eric Baum, Esq.
Attorneys for Plaintiffs
24 Union Square East
Fourth Floor
New York, NY 10003
(212) 353-8700

To:

KERING AMERICAS, INC.
3 East 57th Street
New York, NY 10022

ALEXANDER MCQUEEN TRADING AMERICA, INC
747 Madison Avenue
New York, NY 10065

ALEXANDER MCQUEEN TRADING LTD
747 Madison Avenue
New York, NY 10065

CATHERINE FLYNN

GEORGINA COLEMAN

SAMANTHA BOYKIN

SIDRA CASTOR

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CHRISTOPHER POLICARD and DUANE DAVIS, : Index No.: 26763/2015E
: :
Plaintiffs, : **VERIFIED**
: **COMPLAINT**
: :
-v.- : :
: :
KERING AMERICAS, INC., : Venue is based on
ALEXANDER MCQUEEN TRADING AMERICA, INC, : Plaintiff Duane Davis's place of
ALEXANDER MCQUEEN TRADING LTD., : residence: 4349 Matilda Avenue,
CATHERINE FLYNN, GEORGINA COLEMAN, : Bronx, NY 10466
SAMANTHA BOYKIN and SIDRA CASTOR : :
: :
Defendants. : :
-----X

Plaintiff CHRISTOPHER POLICARD and DUANE DAVIS, by their attorneys,
EISENBERG & BAUM, LLP, as and for their Verified Complaint against Defendants, states as
follows:

THE PARTIES

1. Plaintiff CHRISTOPHER POLICARD (“POLICARD”) is an individual residing in Queens County, New York.
2. Plaintiff DUANE DAVIS (“DAVIS”) is an individual residing at 4349 Matilda Avenue in Bronx County, New York.
3. Defendant KERING AMERICAS INC. (“KAI”) is a foreign business corporation organized pursuant to the laws of the State of Delaware and maintaining offices and business premises at maintaining business premises at 3 East 57th Street, New York, NY 10022, and duly registered to do business, and doing business actively, in the State of New York. Upon information and belief it was the employer of Plaintiffs and/or owned, operated and controlled their employers.

4. Defendant ALEXANDER MCQUEEN TRADING AMERICA, INC. (“AMTAI”) is a foreign business corporation organized pursuant to the laws of the State of Delaware and maintaining offices and business premises at maintaining business premises at 747 Madison Avenue, New York, NY 10065, and duly registered to do business, and doing business actively, in the State of New York. Upon information and belief it was the employer of Plaintiffs.

5. Defendant ALEXANDER MCQUEEN TRADING LTD (“AMTL”), is a foreign business corporation organized pursuant to the laws of the State of Great Britain and duly registered to do business, and doing business actively, in the State of New York, and maintaining offices and business premises at 747 Madison Avenue, New York, NY 10065. Upon information and belief it was the employer of Plaintiffs.

6. Defendant CATHERINE FLYNN is an individual upon information and belief employed as a manager or supervisor by AMTAI and/or AMTL and/or KAI or a related business entity and upon information and belief resides in the State of New York.

7. Defendant GEORGINA COLEMAN is an individual upon information and belief employed as a manager or supervisor by AMTAI and/or AMTL and/or KAI or a related business entity and upon information and belief resides in the State of New York.

8. Defendant SAMANTHA BOYKIN is an individual upon information and belief employed as a manager or supervisor by AMTAI and/or AMTL and/or KAI or a related business entity and upon information and belief resides in the State of New York.

9. Defendant SIDRA CASTOR is an individual upon information and belief employed as a manager or supervisor by AMTAI and/or AMTL and/or KAI or a related business entity and upon information and belief resides in the State of New York.

JURISDICTION AND VENUE

10. This Court has personal jurisdiction over the Defendants pursuant to C.P.L.R. §§ 301 and 302, because the Defendants are located in New York, reside in New York, are licensed to do business in New York and are transacting business in New.

11. Venue is proper pursuant to C.P.L.R. §503 based on Plaintiff's place of residence.

BACKGROUND

12. The Kering corporation operates world-famous luxury fashion houses such as Alexander McQueen, Gucci, Balenciaga and Stella McCartney. On the company's website, it boasts: "Kering empowers its luxury and sport & lifestyle brands to reach their potential in the most imaginative way." Among the company's high-profile clients is counted First Lady Michelle Obama, wife of the first African-American president, Lady Gaga and Naomi Campbell.

13. However this high end luxury designer has engaged in systematic racism against Kering's African-American employees. Upon information and belief, Kering exercises actual, day-to-day control over the other defendants herein including but not limited to supervising, managing and controlling their policies, practices and procedures, including but not limited to policies practices and procedures governing race discrimination, harassment and retaliation, and conducts such business on its premises. This is not the first time the Defendants were placed on notice of racial discrimination. Upon information and belief, Othman Ibela filed a complaint with the EEOC in 2013 against the Alexander McQueen organization.

14. Plaintiff Policard is an African American and he began his employment with Defendants at the 747 Madison Avenue location approximately one year ago. He is an inventory supervisor. Since the inception of his employment, he has faithfully carried out the duties of his position to a high standard of excellence.

15. Plaintiff Davis is an African American and he began his employment with Defendants at the 747 Madison Avenue location approximately two years ago. He is an inventory clerk. Since the inception of his employment, he has faithfully carried out the duties of his position to a high standard of excellence.

16. The company, upon information and belief, systematically rejects African-America job applicants who seek positions on the sales floor where they can be seen by customers or positions where they might have authority over white employees, relegating the few African-Americans who are hired to menial positions behind the scenes. The only time that POLICARD and DAVIS are seen by customers is when Kering searches them for theft in front of the other employees and customers, which is done on the floor during business hours. White employees, on the other hand, are screened for theft after closing and in private.

17. Defendants Flynn, Boykin and Coleman are supervisors to whom Plaintiffs directly report. They act with the authority of AMTAI, AMTL and KAI. Defendant Castor is a human resources manager designated to receive and respond to complaints of racial discrimination. She acts with the authority of AMTAI, AMTL and KAI. Defendants Castor, Flynn and Coleman are white, and Defendant Boykin is Asian.

18. On September 17, 2015, acting on his own behalf and on behalf of Plaintiff Davis, Plaintiff Policard made a written complaint about racial discrimination to Defendant Boykin. He stated that Plaintiffs had consistently experienced discrimination since the inception of their employment based on their race, African-American, and demanded that such mistreatment cease. Although the first formal complaint, Defendants knew or should have known that Plaintiffs were previously subjected to continuous racial discrimination.

19. When no steps were taken to address the discriminatory mistreatment and it continued unabated or worsened, Plaintiff Davis made a second written complaint on November 18, 2015, this time directing it to Defendant Sidra Castro in Defendants' human resources department rather than his immediate supervisors, who were not responsive. Plaintiffs also made oral complaints about discriminatory treatment.

20. Instead of responding to the complaints made by the plaintiffs with corrective action, Defendants embarked upon a course of action designed to denigrate, punish and retaliate against them for making their complaint, intimidate them into withdrawing it or force them to leave the company.

21. The invidious acts of racial discrimination experienced and/or witnessed by the plaintiffs herein include, but are not limited to, the following acts taken by Defendants:

- a. Being left out of important company meetings, necessary to carry out their duties, because of their race, while employees who were not African-American received no such mistreatment;
- b. When permitted to attend meetings, being spoken to disrespectfully for purpose of humiliation because of their race, when white employees are not subject to such mistreatment;
- c. Being denied vacation leave because of their race, when white employees are not subject to such mistreatment;
- d. Being denied feedback from supervisors because of their race, when white employees routinely receive such feedback;

- e. Being denied reasonable requests for support and assistance, for instance a request to reset a computer password that was delayed for four months, denying access to critical health benefits information and other important employment data;
- f. Being falsely accused of theft without evidence and because of their race;
- g. Being invasively screened for theft in public, in front of customers and staff, during business hours, while other employees who are not African-American are either not subject to being screened or are screened in private, and less invasively;
- h. Having requests for extermination of work rooms ignored and being forced to work with vermin present because of their race;
- i. Being treated rudely and aggressively by white employees with the knowledge of managers while carrying out their duties, including having greetings ignored and receiving mocking, humiliating responsive remarks;
- j. Being forced to perform heavy labor under improper circumstances and to engage in other menial, demeaning tasks that white employees are not asked to deal with;
- k. Being laughed at when raising issues of racial discrimination;
- l. Being blamed for alleged errors that were not their fault, because of their race, including but not limited to receiving unwarranted disciplinary measures;
- m. Being denied their rights under Defendants employment practices and procedures, including but not limited to not having grievance investigations timely completed, being refused the right to have a fellow employee present during a grievance meeting, and failure to investigate claims of discrimination because of race.

22. Defendants have been placed on written notice more than once about these and other actions that are improper, and not only have they done nothing to correct the misconduct but it has worsened, for both discriminatory and retaliatory reasons.

23. When Plaintiffs filed written grievances concerning racial discrimination, their complaints were investigated in a perfunctory and superficial manner and then they were accused of misconduct in a manner that clearly indicated their employment would be at risk if they continued to pursue their allegations.

AS AND FOR A FIRST CAUSE OF ACTION
(Racial Harassment and Hostile Workplace – Against All Defendants)

24. Plaintiffs repeat, reiterates and re-alleges each and every allegation set forth in paragraphs numbered “1” through “23” as if set forth more fully and at length herein.

25. Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, and Title 8 of the New York City Administrative Code, §8-107, prohibit racial harassment in employment. Defendants were Plaintiffs’ employers within the meaning of those laws.

26. Defendants denied Plaintiffs the benefit of employment, including all favorable conditions and emoluments thereof and created and allowed to exist a hostile, intolerable workplace based on racial (African-American) harassment that was imposed upon them by the conduct of its employees and managers, of which they were well aware of and without any non-discriminatory basis therefor.

27. Defendants’ actions were taken under circumstances giving rise to an inference of discrimination.

28. As a direct and proximate result of Defendants’ discriminatory conduct, Plaintiffs suffered adverse employment consequences. Plaintiffs were caused to suffer lost past and future wages, professional opportunities, other valuable benefits and emoluments of employment as

well as to endure severe emotional pain and trauma and anxiety, all to their detriment. Their workplace became intolerable to a reasonable person.

AS AND FOR A SECOND CAUSE OF ACTION
(Racial Discrimination – Against All Defendants)

29. Plaintiffs repeat, reiterates and re-alleges each and every allegation set forth in paragraphs numbered “1” through “28” as if set forth more fully and at length herein.

30. Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law §290 *et seq.* and Title 8 of the New York City Administrative Code, §8-107 prohibit racial discrimination in employment. Defendants were Plaintiffs’ employers within the meaning of those laws.

31. Defendants denied Plaintiffs the benefit of employment, including all favorable conditions and emoluments thereof and created and allowed to exist a hostile, intolerable workplace based on racial (African-American) discrimination that was imposed upon them by the conduct of its employees and managers, of which they were well aware of and without any non-discriminatory basis therefor.

32. Defendants’ actions were taken under circumstances giving rise to an inference of discrimination.

33. As a direct and proximate result of Defendants’ discriminatory conduct, Plaintiffs suffered adverse employment consequences. Plaintiffs were caused to suffer lost past and future wages, professional opportunities, other valuable benefits and emoluments of employment as well as to endure severe emotional pain and trauma and anxiety, all to their detriment.

AS AND FOR A THIRD CAUSE OF ACTION
(Retaliation – Against All Defendants)

34. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered “1” through “33” as if set forth more fully and at length herein.

35. Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.* and Title 8 of the New York City Administrative Code, §8-107 prohibit retaliation against an employee who seeks to assert rights under the Human Rights Law. Defendants were Plaintiffs' employers within the meaning of those laws.

36. Plaintiffs complained to Defendants about the mistreatment based on race inflicted upon them by employees and managers of Defendants. In response, Plaintiffs were subjected to additional mistreatment until working conditions became unbearable, all with the knowledge and approval of Defendant for the purpose of punishing them for attempting to assert their rights to be free from discrimination and harassment in the workplace.

37. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

38. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiffs suffered adverse employment consequences. Plaintiffs were caused to suffer lost past and future wages, professional opportunities, other valuable benefits and emoluments of employment as well as to endure severe emotional pain and trauma and anxiety, all to their detriment.

AS AND FOR A FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress– Against All Defendants)

39. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered "1" through "38" as if set forth more fully and at length herein.

40. Defendants, knowing that Plaintiffs were psychologically and financially vulnerable, intentionally inflicted egregious emotional trauma upon Plaintiff.

41. Defendants' conduct was extreme and outrageous, and taken with the intention to cause, or disregard of the substantial probability of causing, severe emotional distress. There was

a causal connection between the conduct and severe emotional distress and severe emotional distress was actually suffered by the plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court grant the following relief against the Defendants:

A. Enter a declaratory judgment, stating that Defendants' practices, policies and procedures subjected Plaintiffs to racial harassment, discrimination and retaliation in violation of Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.* and Title 8 of the New York City Administrative Code, § 8-107.

B. Enjoin Defendants from implementing or enforcing any policy, procedure, or practice that denies employees of any race the full and equal enjoyment of Defendants' benefits, pay increases, promotional opportunities and advancement within the company, and specifically enjoin them:

- i. to develop, implement, promulgate, and comply with a policy providing for the training of each and every employee and manager in the civil rights of employees in the workplace, including but not limited to racial harassment, discrimination and retaliation;
- ii. to develop, implement, promulgate, and comply with a policy providing for reporting and investigation of complaints regarding civil rights abuses, including but not limited to race discrimination, harassment and retaliation; and
- iii. to develop, implement, promulgate, and comply with a policy providing for disciplinary measures to be imposed upon any person found responsible for

civil rights abuses, including but not limited to race discrimination,
harassment and retaliation;

C. On the First Cause of Action, enter judgment against the named defendants and an award of compensatory damages including, but not limited to damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, to be determined at trial by the jury, and further relief as this Honorable Court deems just, equitable and proper;

D. On the Second Cause of Action enter judgment against the named defendants and an award of compensatory damages, including but not limited to damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, in an amount to be determined at trial by the jury, and further relief as this Honorable Court deems just, equitable and proper;

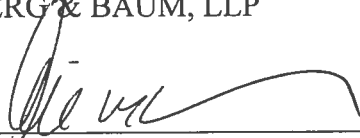
E. On the Third Cause of Action enter judgment against the named defendants and an award of compensatory damages, including but not limited to damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, to be determined at trial by the jury, and further relief as this Honorable Court deems just, equitable and proper;

F. On the Fourth Cause of Action enter judgment against the named defendants and an award of compensatory damages, including but not limited to damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, in an amount to be determined at trial by the jury, and further relief as this Honorable Court deems just, equitable and proper.

Dated: New York, New York
December 9, 2015

EISENBERG & BAUM, LLP

By: _____


Eric M. Baum, Esq.
Attorneys for Plaintiffs
24 Union Square East
Fourth Floor
New York, NY 10003
(212) 353-8700

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

The undersigned, CHRISTOPHER POLICARD, shows:

Deponent is CHRISTOPHER POLICARD, Plaintiff in the above-entitled action.

Deponent has read the foregoing Amended Verified Complaint dated December 9, 2015, and states that, to deponent's knowledge, the same is true except as to matters herein stated to be alleged upon information and belief; as to those matters, deponent believes them to be true.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: December 9, 2015



CHRISTOPHER POLICARD

Sworn to before me this
9th day of December, 2015



NOTARY PUBLIC

SAGAR SHAH Notary Public - State of New York No. 02SH6330449 Qualified in New York County My Comm. Expires Sep. 14, 2019
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VERIFICATION


STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

The undersigned, DUANE DAVIS, shows:

Deponent is DUANE DAVIS, Plaintiff in the above-entitled action. Deponent has read the foregoing Amended Verified Complaint dated December 9, 2015, and states that, to deponent's knowledge, the same is true except as to matters herein stated to be alleged upon information and belief; as to those matters, deponent believes them to be true.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: December 9, 2015


DUANE DAVIS

Sworn to before me this
9th day of December, 2015


NOTARY PUBLIC

<p>SAGAR SHAH Notary Public - State of New York No. 02SH6330449 Qualified in New York County My Comm. Expires Sep. 14, 2019</p>
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Index No.

Year:

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ALEXANDER MCQUEEN TRADING LTD.,
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SAMANTHA BOYKIN and SIDRA CASTOR,

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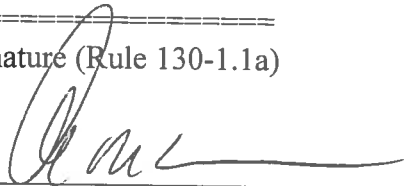
SUMMONS AND VERIFIED COMPLAINT

EISENBERG & BAUM, LLP

**Attorneys for
PLAINTIFFS**

**Office and Post Address
24 Union Square East
Fourth Floor
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Fax: (212) 353-1708**

Signature (Rule 130-1.1a)



Eric M. Baum, Esq.