

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

JASON ALLEN, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

WEIS MARKETS, INC.,

Defendant.

Case No.: \_\_\_\_\_

**COMPLAINT - CLASS ACTION**

**JURY TRIAL DEMANDED**

*Electronically Filed*

**COMPLAINT - CLASS ACTION**

Plaintiff, JASON ALLEN (“Mr. Allen” or “Named Plaintiff”), individually and on behalf of all others similarly situated (collectively “Plaintiffs”), by and through undersigned counsel, McCarthy Weisberg Cummings, P.C., hereby files this Complaint - Class Action (“Complaint”) to address unlawful race discrimination in employee hiring and/or promotion practices and a racially hostile work environment perpetrated by Defendant, WEIS MARKETS, INC. (“Weis Markets” or “Defendant”), pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.* (hereinafter referred to as “Title VII”) as well as an individual race claim pursuant to Section 1981 of the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 (hereinafter referred to as “Section 1981”). Based on Mr. Allen’s personal knowledge, and on information and belief, Mr. Allen alleges as follows:

## **THE PARTIES**

### **A. Named Plaintiff**

1. Named Plaintiff, Mr. Allen, is a resident of the Commonwealth of Pennsylvania, residing at 444 Kreamer Avenue, Northumberland County, Sunbury, Pennsylvania.

2. From April 2012 through the present, Mr. Allen, an African-American male, has been “employee” at Weis Markets, as defined by Title VII.

### **B. Defendant**

3. Defendant, Weis Markets, is a Pennsylvania domestic corporation that maintains its principal place of business and corporate headquarters at 1000 South 2<sup>nd</sup> Street, Northumberland County, Sunbury, Pennsylvania. Weis Markets is a multi-state food retailer that owns and operates numerous grocery stores, including multiple stores in this Judicial District.

4. At all times relevant to this Complaint, Weis Markets was an “employer” as defined by Title VII and acted as Mr. Allen’s employer.

5. At all times relevant to this Complaint, Weis Markets employed in excess of fifteen (15) individuals.

### **JURISDICTION AND VENUE**

6. This Complaint alleges unlawful race-based discrimination by Named Plaintiff's employer and as such, this Court has subject matter jurisdiction over this suit pursuant to Title VII, Section 1981, and 28 U.S.C. § 1331.

7. Venue is proper in this District pursuant to 28 U.S.C § 1391(b) and (c). The unlawful discrimination practices complained of *infra* took place within this Judicial District and a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in this Judicial District. Further, Weis Markets regularly transacts substantial business within this Judicial District.

### **ADMINISTRATIVE PROCEEDINGS**

8. On or about November 3, 2017, Mr. Allen filed a CHARGE OF DISCRIMINATION – CLASS ACTION with the United States Equal Employment Opportunity Commission (hereinafter referred to as "EEOC"), which was docketed as EEOC Charge No. 530-2018-00473, alleging racial discrimination during his employment with Defendant, and dual filed with the Pennsylvania Human Relations Commission ("PHRC").

9. Mr. Allen has been advised of his right, individually and on behalf of all others similarly situated, to bring a civil action by receiving a Notice of Right to Sue from the EEOC, dated February 12, 2018.

10. Mr. Allen has exhausted the administrative remedies available to him, and all others similarly situated, and all necessary and appropriate administrative prerequisites to the filing of this Complaint have occurred and been satisfied.

### **NATURE OF THE CASE**

11. Defendant owns and operates the Weis Markets grocery stores. According to Defendant's website, it operates stores in Pennsylvania, Maryland, New York, New Jersey, Delaware, Virginia, and West Virginia.

12. Named Plaintiff is an African-American and was hired by Defendant in or around April of 2012 as a selector/equipment operator at its warehouse in Milton, Pennsylvania ("Milton Warehouse"). During his tenure with Defendant, Mr. Allen has been repeatedly passed over for promotion and set aside for favored Caucasian employees.

13. Upon information and belief, Weis Markets maintains a practice of favoring Caucasian employees for hiring and/or promotion over African-American employees, which practice is evident in the racial imbalance of Defendant's workforce, management, and supervisory staff.

14. Mr. Allen asserts Count I of this Complaint, on behalf of himself individually and as a class action of similarly-situated African-American employees, for unlawful discriminatory hiring and/or promotion practices pursuant to Title VII. Mr. Allen seeks to recover damages for himself and all others of the

class action, including, but not limited to compensatory damages, back pay, punitive damages, reasonable attorneys' fees, and litigation costs and expenses.

15. In addition to the aforementioned discriminatory hiring and/or promotion practices, Weis Markets helped create, maintain, foster and/or encourage a racially hostile work environment, which is evident through the severe and pervasive racial discrimination and derogatory language Mr. Allen and other similarly-situated African-American employees are subjected to within their workplace on a regular basis.

16. Mr. Allen asserts Count II of this Complaint, on behalf of himself individually and as a class action of similarly-situated African-American employees, for unlawful discrimination by helping create, maintaining, fostering, and/or encouraging a racially hostile work environment pursuant to Title VII. Mr. Allen seeks to recover damages for himself and all others of the class action, including, but not limited to compensatory damages, back pay, punitive damages, reasonable attorneys' fees, and litigation costs and expenses.

### **FACTUAL ALLEGATIONS**

17. Defendant owns and operates the Weis Markets grocery stores across multiple states; as part of this operation, it maintains multiple warehouses and/or distribution centers, including the Milton Warehouse.

18. Upon information and belief, Weis Markets is a family-owned corporation that maintains strict, centralized control over its employees, which includes hiring and/or promotion decisions, as well as decisions and policies related to unlawful workplace discrimination. In order to maintain this control, Defendant has a rigid, top-down, hierarchical corporate structure.

19. Defendant's executive leadership has executed a top-down promotion policy, which consistently, systematically, and willfully discriminates on the basis of race by refusing to hire African-American employees and/or promote African-American employees to management or supervisory positions.

20. As a result, Defendant's employees, including its corporate and management structure all the way down to supervisors and managers at individual locations, such as the Milton Warehouse, have been overwhelmingly Caucasian since its inception.

21. Defendant's deliberate racial discrimination against African-Americans manifests itself in the overwhelmingly Caucasian majority workforce, including its management and supervisory personnel.

22. Defendant deliberately and willfully refuses to hire African-Americans and/or promote African-American candidates to supervisory or management positions where equally or less-qualified Caucasian candidates are available.

23. Furthermore, Defendant's executive leadership does not maintain a "zero tolerance" policy for racial discrimination, despite maintaining such policies for other types of unlawful discrimination.

24. Instead, Defendant's corporate and management structure tolerates racial discrimination and refuses to correct and/or discipline employees who use racially derogatory language, such as "nigger."

25. Defendant's failure to properly correct and/or discipline such racially offensive behavior helps create, maintain, foster, and/or encourage a racially hostile work environment in which the perpetrators of racial discrimination act with impunity, and the complaints of the victims of such discrimination are ignored.

#### **MR. ALLEN'S EXPERIENCE AS A WEIS MARKET'S EMPLOYEE**

26. Mr. Allen was hired by Defendant in April of 2012 as a selector/equipment operator at the Milton Warehouse.

27. During the course of Mr. Allen's employment, he has been repeatedly passed over for promotions in favor of similarly-situated and/or less qualified Caucasian employees.

28. During the summer of 2017, Mr. Allen's co-workers began spreading rumors about his relationship with a co-worker, Ms. Shelva Haup.

29. Ms. Haup addressed these rumors publicly by announcing that she does not date “niggers.”

30. At Mr. Allen’s next interaction with Ms. Haup, she nearly hit him with the work equipment she was operating. Ms. Haup was clearly angry and aggressive, and the incident was not coincidental.

31. Mr. Allen thereafter reported Ms. Haup’s racially-offensive statement and her subsequent behavior to his supervisor, Brad Newman and asked to be relocated.

32. Defendant transferred Mr. Allen to a different department to separate him from Ms. Haup; however, only weeks later, Ms. Haup was transferred into Mr. Allen’s department.

33. In October 2017, Mr. Allen’s co-worker, Carson (last name unknown), repeatedly criticized another Caucasian co-worker, instructing him: “You’re not black, so stop acting like a nigger.”

34. Upon information and belief, multiple employees reported this incident to their supervisors, but Carson was never corrected.

35. Mr. Allen then complained to his supervisor, Chris Kitchen, about the racially hostile environment created by Carson.

36. While Mr. Allen was making his complaint to Mr. Kitchen, Carson entered the supervisor’s office and confronted Mr. Allen for reporting him.



37. As Mr. Allen left the office, Carson followed him and yelled at him, explaining that Mr. Allen should not have taken offense because Carson was not calling Mr. Allen a “nigger,” but directing that word at a Caucasian coworker.

38. Mr. Allen immediately complained to Mr. Kitchen and two other supervisors regarding Carson’s continued use of the word “nigger” and his retaliation against Mr. Allen for reporting the racially hostile work environment

39. Upon information and belief, Carson was subsequently suspended for a day pending Defendant’s investigation, but no further disciplinary action was taken.

40. On or about October 23, 2017, Mr. Allen was called in for a meeting with representatives of Defendant’s management, Paul Miller and Eric Hudson, who asked Mr. Allen what he wanted them to do about his complaints of racial discrimination.

41. Mr. Allen explained that since Defendant maintains “zero tolerance” policies for sexual harassment and other rule infractions, a “zero tolerance” policy should also be adopted for racial discrimination.

42. Mr. Miller and Mr. Hudson explained that Defendant would not countenance such a policy.

43. Mr. Hudson then stated that in over twenty (20) years since he had been with Defendant, he had never seen a black manager or supervisor in the warehouse.

44. Mr. Miller then stated that Defendant would hire a Hispanic supervisor over an African-American supervisor should the choice ever present itself.

45. Mr. Allen suggested that Defendant arrange a warehouse-wide employee meeting to discuss racial discrimination in the workplace.

46. Mr. Miller and Mr. Hudson disregarded Mr. Allen's suggestions, changed the subject, and left the meeting with no resolution.

47. Upon information and belief, no actions were taken as a result of this meeting.

48. Despite his complaints, Mr. Allen continues to work in the same department as Ms. Haup and Carson.

49. Upon information and belief, Mr. Allen has been passed over for promotion in favor of similarly-situated or less qualified Caucasians because of his African-American race.

50. Defendant had no basis, other than race, to pass Mr. Allen over for promotion. Defendant's actions were deliberate and willful and violated Title VII.

**CLASS ACTION ALLEGATIONS - TITLE VII**

51. Defendant has engaged in systemic racial discrimination against its African-American employees. As a result, Defendant has caused, contributed to, and perpetuated a racially disparate workforce, including its management structure, as well as a racially hostile work environment through common policies, practices, and procedures.

52. Mr. Allen re-alleges and incorporates by reference each and every allegation in the previous paragraphs alleging common policies, practices, and procedures resulting in a racially disparate management structure and racially hostile work environment.

53. Mr. Allen brings the Title VII statutory claims pursuant to Fed. R. Civ. P. 23 on behalf of a class (the “Title VII Class”) defined as:

All African-American prospective employees (applicants) or employees who were otherwise qualified but were denied hiring or promotion and/or subjected to a racially hostile work environment due to their race during the applicable limitations period up until this Class is finally certified by the Court.

54. Mr. Allen seeks to represent all African-American prospective employees (applicants), employees, or former employees, as described above, who were denied employment or promotion and/or subjected to a racially hostile work environment at Defendant’s various locations. The systemic racial discrimination described in this Complaint has been, and is, continuing in nature.

55. The Title VII Class as defined above is identifiable. Mr. Allen is a member of the Title VII Class.

56. The Title VII Class, upon information and belief, consist of hundreds (if not thousands) of individuals, including prior applicants, current and former employees of Defendant, and is thus so numerous that joinder of all members is impracticable.

57. Furthermore, members of the Title VII Class still employed by Defendant may be reluctant to raise individual claims for fear of retaliation.

58. There are questions of law and fact which are not only common to the Title VII Class, but which predominate over any questions affecting only individual members of the Title VII Class. The predominating common questions include, but are not limited to:

- a. Whether Defendant unlawfully discriminated and continues to unlawfully discriminate against African-Americans when making hiring and promotion decisions at management or supervisory levels;
- b. Whether Defendant's policy, practice, or procedure of failing to promote or hire African-Americans for employment, including for its management or supervisory positions, violates the applicable provisions of Title VII;
- c. Whether Defendant's failure to promote or hire African-Americans for employment, including for its management or supervisory positions, was willful within the meaning of Title VII;
- d. Whether Defendant helped create and maintains, fosters, and/or encourages a racially hostile work environment that violates the applicable provisions of Title VII; and

- e. Whether Defendant's conduct that helped create, maintain, foster and/or encourage a racially hostile work environment, was willful within the meaning of Title VII.

59. The prosecution of the separate actions by individual members of the Title VII Class would create a risk of establishing incompatible standards of conduct for Defendant, within the meaning of Fed. R. Civ. P. 23(b)(1)(A).

60. The claims of Mr. Allen are typical of the claims of each member of the Title VII Class within the meaning of Fed. R. Civ. P. 23(a)(3) and are based on and arise out of identical facts constituting the wrongful conduct of Defendant.

61. Mr. Allen will fairly and adequately protect the interests of the Title VII Class.

62. Mr. Allen and the Title VII Class have retained counsel competent and experienced in litigating class actions, as well as other complex employment litigation.

63. Mr. Allen has no conflict of interest with the Title VII Class.

64. Mr. Allen is able to fairly and adequately represent and protect the interest of the members of the Title VII Class.

65. The common questions of law and fact enumerated above predominate over questions affecting only individual members of the Title VII Class, and a class action is the superior method for fair and efficient adjudication of the controversy, within the meaning of Fed. R. Civ. P. 23(b)(3). The likelihood

that individual members of the Title VII Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation.

66. There are no unusual difficulties in the management of this case as a class action.

67. The books and records of Defendant are material to this litigation as they disclose the positions, salary/wages paid, promotions and other information relevant to all of its employees, including information specific to the unlawful racial discrimination experienced by members of the Title VII Class.

68. Mr. Allen's Title VII claims should be certified as a class action pursuant to Federal Rule of Civil Procedure 23.

**COUNT I**  
**(INDIVIDUAL AND CLASS CLAIM)**

**TITLE VII VIOLATIONS - RACE DISCRIMINATION**  
**(Asserted by Named Plaintiff and the Title VII Class Against Defendant)**

69. All prior paragraphs are incorporated herein as if set forth fully below.

70. This Count is brought on behalf of Mr. Allen and all members of the Title VII Class against Defendant.

71. Defendant is an employer of Mr. Allen and the members of the Title VII Class within the meaning of Title VII.

72. Defendant has discriminated against Mr. Allen and the members of the Title VII Class by refusing to consider them for hiring or promotion, including

for its management or supervisory positions, where similarly situated or less qualified Caucasian candidates were available.

73. The hiring or promotion of Caucasian employees, including for its management or supervisory positions, over Mr. Allen and the members of the Title VII Class was not due to seniority, merit, quantity or quality of production, or a factor other than race, but was, in fact, due exclusively to race.

74. Furthermore, upon information and belief, Defendant's executive leadership does not maintain a "zero tolerance" policy for racial discrimination with regard to its hiring and promotion opportunities, despite maintaining such policies for other types of unlawful discrimination.

75. Defendant caused, attempted to cause, and contributed to the continuation of race-based discrimination in hiring and promotion practices, in violation of Title VII.

76. Defendant intentionally refused to consider Mr. Allen and the members of the Title VII Class for promotion to management or supervisory positions on the basis of their race in violation of Title VII. The foregoing conduct constitutes a willful violation of Title VII.

77. As a result of Defendant's unlawful conduct, Mr. Allen and the members of the Title VII Class suffered and will continue to suffer harm,

including, but not limited to, lost earning, lost benefits, lost future employment opportunities, and other financial losses, as well non-economic damages.

78. Mr. Allen and the members of the Title VII Class are entitled to all legal and equitable remedies available for violations of Title VII, including, but not limited to, back pay, front pay, liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees and litigations costs, and other compensation.

**PRAYER FOR RELIEF ON COUNT I**

WHEREFORE, Named Plaintiff, Jason Allen, individually and on behalf of all others similarly situated, respectfully requests that this Honorable Court enter Judgment in their favor and against Defendant, Weis Markets, Inc., as follows:

- A. Certify Count I as a class action;
- B. Designate Named Plaintiff as representative of the Title VII Class;
- C. Designate Named Plaintiff's counsel and the Title VII Class' counsel as counsel for the Title VII Class;
- D. Declare and adjudge that Defendant's employment decisions, policies, practices, and/or procedures challenged herein are harmful and in violation of Title VII;
- E. Defendant is to be permanently enjoined from discriminating against Named Plaintiff and the members of the Title VII Class on the basis of their race, and/or any basis prohibited under applicable federal and state law;



- F. Defendant is to be prohibited from continuing to maintain its illegal policy, practice, or custom of discriminating against employees based on their race and is to be ordered to promulgate an effective policy against such discrimination and to adhere thereto;
- G. Award Named Plaintiff and the members of the Title VII Class actual damages, as well as damages for the pain, suffering, and humiliation caused to him by Defendant's actions;
- H. Award Named Plaintiff and the members of the Title VII Class compensatory damages;
- I. Award back pay to Named Plaintiff and the members of the Title VII Class, including a sum to compensate Named Plaintiff and the members of the Title VII Class for any increased tax liability on a lump-sum award of back pay;
- J. Award front pay to Named Plaintiff and the members of the Title VII Class, including a sum to compensate Named Plaintiff and the members of the Title VII Class for any increased tax liability on a lump-sum award of front pay;
- K. Award Mr. Allen and the members of the Title VII Class punitive damages;
- L. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to counsel for Named Plaintiff and the members of the Title VII Class;
- M. Award Named Plaintiff and the members of the Title VII Class pre-judgment and post-judgment interest;
- N. Any verdict in favor of Named Plaintiff and the members of the Title VII Class is to be molded by the Court to maximize the financial recovery available to Named Plaintiff and the members of the Title VII Class in light of the caps on certain damages set forth in applicable federal and state law;
- O. Award Named Plaintiff and the members of the Title VII Class any other appropriate equitable relief; and

- P. Named Plaintiff and the members of the Title VII Class are to be granted such additional injunctive or other relief as they may request during the pendency of this action in an effort to ensure Defendant does not engage - or ceases engaging - in illegal retaliation against Named Plaintiff, members of the Title VII Class, or other witnesses to this action;
- Q. Award any additional relief that this Court deems just and proper; and
- R. The Court is to maintain jurisdiction of this action after verdict to ensure compliance with its Orders therein.

**COUNT II**  
**(INDIVIDUAL AND CLASS CLAIM)**

**TITLE VII VIOLATIONS - HOSTILE WORK ENVIRONMENT (RACE)**  
**(Asserted by Named Plaintiff and the Title VII Class Against Defendant)**

79. All prior paragraphs are incorporated herein as if set forth fully below.

80. This Count is brought on behalf of Mr. Allen and all members of the Title VII Class against Defendant.

81. Defendant is an employer of Mr. Allen and the members of the Title VII Class within the meaning of Title VII.

82. Defendant has discriminated against Mr. Allen and the members of the Title VII Class by helping to create, maintain, foster, and/or encourage a racially hostile work environment.

83. Defendant's racially hostile work environment is evident through the severe and pervasive racial discrimination and derogatory language Mr. Allen and

other similarly-situated African-American employees are subjected to within their workplace on a regular basis.

84. Defendant discriminated against Mr. Allen and the members of the Title VII Class by subjecting them to racially hostile work environment and allowing this environment to persist despite myriad complaints of racial discrimination.

85. Defendant discriminated against Mr. Allen and the members of the Title VII Class by refusing to enact policies or take any effective steps to discourage racial discrimination.

86. Furthermore, upon information and belief, Defendant's executive leadership does not maintain a "zero tolerance" policy for racial discrimination with regard to a racially hostile work environment, despite maintaining such policies for other types of unlawful discrimination.

87. Instead, Defendant's corporate and management structure tolerates racial discrimination and refuses to correct and/or discipline employees who use racially derogatory language, such as "nigger."

88. Defendant's failure to properly correct and/or discipline such racially offensive behavior helped create, maintain, foster, and/or encourage a racially hostile work environment in which the perpetrators of racial discrimination act

with impunity, and the complaints of the victims of such discrimination are ignored.

89. As a result, Defendant caused, attempted to cause, and contributed to the continuation of a racially hostile work environment in violation of Title VII.

90. Defendant's refusal to properly correct and/or discipline such racially offensive behavior constitutes a willful violation of Title VII.

91. As a result of Defendant's unlawful conduct, Mr. Allen and the members of the Title VII Class suffered and will continue to suffer harm, including, but not limited to, lost earning, lost benefits, lost future employment opportunities, and other financial losses, as well non-economic damages.

92. Mr. Allen and the members of the Title VII Class are entitled to all legal and equitable remedies available for violations of Title VII, including, but not limited to, back pay, front pay, liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees and litigations costs, and other compensation.

### **PRAYER FOR RELIEF ON COUNT II**

WHEREFORE, Named Plaintiff, Jason Allen, individually and on behalf of all others similarly situated, respectfully requests that this Honorable Court enter Judgment in their favor and against Defendant, Weis Markets, Inc., as follows:

A. Certify Count II as a class action;

- B. Designate Named Plaintiff as representative of the Title VII Class;
- C. Designate Named Plaintiff's counsel and the Title VII Class' counsel as counsel for the Title VII Class;
- D. Declare and adjudge that Defendant's employment decisions, policies, practices, and/or procedures challenged herein are harmful and in violation of Title VII;
- E. Defendant is to be permanently enjoined from discriminating against Named Plaintiff and the members of the Title VII Class on the basis of their race, and/or any basis prohibited under applicable federal and state law;
- F. Defendant is to be prohibited from continuing to maintain its illegal policy, practice, or custom of discriminating against employees based on their race and are to be ordered to promulgate an effective policy against such discrimination and to adhere thereto;
- G. Award Named Plaintiff and the members of the Title VII Class actual damages, as well as damages for the pain, suffering, and humiliation caused to him by Defendant's actions;
- H. Award Named Plaintiff and the members of the Title VII Class compensatory damages;
- I. Award back pay to Named Plaintiff and the members of the Title VII Class, including a sum to compensate Named Plaintiff and the members of the Title VII Class for any increased tax liability on a lump-sum award of back pay;
- J. Award front pay to Named Plaintiff and the members of the Title VII Class, including a sum to compensate Named Plaintiff and the members of the Title VII Class for any increased tax liability on a lump-sum award of front pay;
- K. Award Mr. Allen and the members of the Title VII Class punitive damages;

- L. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to counsel for Named Plaintiff and the members of the Title VII Class;
- M. Award Named Plaintiff and the members of the Title VII Class pre-judgment and post-judgment interest;
- N. Any verdict in favor of Named Plaintiff and the members of the Title VII Class is to be molded by the Court to maximize the financial recovery available to Named Plaintiff and the members of the Title VII Class in light of the caps on certain damages set forth in applicable federal and state law;
- O. Award Named Plaintiff and the members of the Title VII Class any other appropriate equitable relief; and
- P. Named Plaintiff and the members of the Title VII Class are to be granted such additional injunctive or other relief as they may request during the pendency of this action in an effort to ensure Defendant does not engage - or ceases engaging - in illegal retaliation against Named Plaintiff, members of the Title VII Class, or other witnesses to this action;
- Q. Award any additional relief that this Court deems just and proper; and
- R. The Court is to maintain jurisdiction of this action after verdict to ensure compliance with its Orders therein.

**COUNT III**  
**(INDIVIDUAL CLAIM)**

**VIOLATIONS OF SECTION 1981 - RACE DISCRIMINATION**  
**(Asserted by Named Plaintiff Against Defendant)**

- 93. All prior paragraphs are incorporated herein as if set forth fully below.
- 94. At all times relevant herein, Plaintiff sought to engage in a contractual relationship with Defendant.

95. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, to deny Mr. Allen promotion in favor of similarly-situated or less qualified Caucasians because of his African-American race.

96. Defendant had no basis, other than race, to pass Mr. Allen over for promotion, thereby denying Plaintiff the benefits of the contractual relationship he had entered into with Defendant.

97. Defendant's actions were deliberate and willful.

98. The actions of Defendant set forth above constitute violations of Plaintiff's federal civil rights under Section 1981.

99. As a result of this discrimination, Plaintiff has suffered economic loss, emotional distress, a loss of self-respect and confidence, and his standing in the community has been damaged.

WHEREFORE, Named Plaintiff, Jason Allen, respectfully requests that this Honorable Court enter Judgment in his favor and against Defendant, Weis Markets, Inc., as follows:

- A. Defendant is to be permanently enjoined from discriminating against Named Plaintiff on the basis of his race, and/or any basis prohibited under applicable federal and state law;
- B. Defendant is to be prohibited from continuing to maintain its illegal policy, practice, or custom of discriminating against employees based on their race and are to be ordered to promulgate an effective policy against such discrimination and to adhere thereto;

- C. Declare and adjudge that Defendant's employment decisions, policies, practices, and/or procedures challenged herein are harmful and in violation of Section 1981;
- D. Award Named Plaintiff actual damages, as well as damages for the pain, suffering, and humiliation caused to him by Defendant's actions;
- E. Award Named Plaintiff compensatory damages. Defendant is to compensate Named Plaintiff, reimburse Named Plaintiff, and make Named Plaintiff whole for any and all pay and benefits Named Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay and front pay, including a sum to compensate Named Plaintiff for any increased tax liability on a lump-sum award of back pay and front pay, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension and seniority. Named Plaintiff should be accorded those benefits illegally withheld from the date he first suffered discrimination at the hands of Defendant until the date of verdict;
- F. Award Named Plaintiff punitive damages under Section 1981;
- G. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to counsel for Named Plaintiff;
- H. Award Named Plaintiff pre-judgment and post-judgment interest;
- I. Any verdict in favor of Named Plaintiff is to be molded by the Court to maximize the financial recovery available to Named Plaintiff in light of the caps on certain damages set forth in applicable federal and state law;
- J. Award Named Plaintiff any other appropriate equitable relief;
- K. Named Plaintiff is to be granted such additional injunctive or other relief as he may request during the pendency of this action in an effort to ensure Defendant does not engage - or ceases engaging - in illegal retaliation against Plaintiff or other witnesses to this action;
- L. Award any additional relief that this Court deems just and proper; and



M. The Court is to maintain jurisdiction of this action after verdict to ensure compliance with its Orders therein.

**DEMAND FOR JURY TRIAL**

Named Plaintiff and the respective Class Plaintiff demand a trial by jury on all issues so triable.

Dated: April 25, 2018

Respectfully submitted,

**McCarthy Weisberg Cummings, P.C.**

By: /s/ Derrek Cummings  
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*COUNSEL FOR NAMED PLAINTIFF AND  
THE CLASS*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jason Allen, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Northumberland (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
McCarthy Weisberg Cummings, P.C.
2704 Commerce Drive, Suite B
Harrisburg, PA 17110-9380 (717) 238-5707

DEFENDANTS

Weis Markets, Inc.

County of Residence of First Listed Defendant Northumberland (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq. and 42 U.S.C. § 1981 (individual)
Brief description of cause:
Plaintiffs were discriminated against on the basis of their African-American race.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/25/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Derrek W. Cummings

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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