

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AAMBER MCGEE, TERRELL VEAL, and
KENDALL MAXEY, on behalf of themselves
and other similarly situated laborers,

Plaintiffs,

v.

CAPITOL WHOLESALE MEATS, INC.,
TOTAL STAFFING SOLUTIONS, INC., and
ELITE LABOR SERVICES ON 55th, LTD.,

Defendants.

Case No. 18-cv-7130

CLASS ACTION COMPLAINT

Plaintiffs Amber McGee, Terrell Veal, and Kendall Maxey (“Plaintiffs”), on behalf of themselves and all other similarly situated laborers, for their Complaint against Capitol Wholesale Meats, Inc., (“Capitol Meats”), Total Staffing Solutions, Inc. (“Total Staffing”), and Elite Labor Services On 55th, Ltd. (“Elite”) (collectively “Defendants”), state as follows:

I. INTRODUCTION

1. This lawsuit arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”); and under the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 (“Section 1981”), for Defendants’ discrimination against African-American laborers in their practices of making assignments to work. Elite and Total Staffing are staffing agencies that assign laborers in their labor pool to third-party client companies for a fee, including to Defendant Capitol Meats.

2. In 2016, Plaintiffs sought work assignments from Elite or Total Staffing to work at their client companies, including Capitol Meats, but on one or more occasions, they were not assigned to Capitol Meats, because of their race.

3. Plaintiffs bring their Title VII and Section 1981 claims on behalf of themselves and other similarly situated African-American laborers. Capitol Meats, Elite, and Total Staffing bear joint responsibility for the pattern or practice of excluding or severely restricting job assignments for African-American laborers. The claims encompassed by this action warrant certification as a class action, with separate subclasses for workers at Elite and Total Staffing.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over Plaintiffs' Title VII and § 1981 claims pursuant to 28 U.S.C. § 1331, 42 U.S.C. § 2000e-5, and 42 U.S.C. § 1981.

5. Venue is proper in this judicial district because a substantial number of the facts and events giving rise to Plaintiffs' claims occurred in this judicial district and because Defendants maintained their offices and transacted business within this jurisdiction.

6. On July 14, 2017, Plaintiff Amber McGee filed charges of discrimination against Total Staffing and Capitol Meats. On September 27, 2018, the EEOC issued Notices of the Right to Sue to Ms. McGee.

III. PARTIES

A. Plaintiffs

7. Plaintiff Amber McGee is an African-American female who, until a few months ago, resided in this judicial district.

8. Plaintiff Terrell Veal is an African-American male who resides in this judicial district.

9. Plaintiff Kendall Maxey is an African-American male who resides in this judicial district.

B. Defendants

10. At all relevant times, Defendant Total Staffing:

- a. has been a corporation organized under the laws of the State of Illinois;
- b. has been located in and conducted business in Illinois and within this judicial district;
- c. has been an “employment agency” as that term is defined by 42 U.S.C. § 2000e(c);
- d. has been a day and temporary labor service agency as defined by the Illinois Day and Temporary Labor Services Act, 820 ILCS 175/1 *et seq.*; and
- e. has been an “employer” as that term is defined by 42 U.S.C. § 2000e(b) and 42 U.S.C. § 1981(c).

11. At all relevant times, Defendant Elite:

- a. has been a corporation organized under the laws of the State of Illinois;
- b. has been located in and conducted business in Illinois and within this judicial district;
- c. has been an “employment agency” as that term is defined by 42 U.S.C. § 2000e(c);
- d. has been a day and temporary labor service agency as defined by the Illinois Day and Temporary Labor Services Act, 820 ILCS 175/1 *et seq.*; and
- e. has been an “employer” as that term is defined by 42 U.S.C. § 2000e(b) and 42 U.S.C. § 1981(c).

12. At all relevant times, Defendant Capitol Meats:

- a. has been a corporation organized under the laws of the State of Illinois;

- b. has been located in and conducted business in Illinois and within this judicial district; and
- c. has been an “employer” as that term is defined by 42 U.S.C. § 2000e(b) and 42 U.S.C. § 1981(c);

IV. FACTUAL BACKGROUND

13. Elite is in the business of providing third-party client companies, including Capitol Meats, with low- and moderately-skilled laborers to fill jobs on a daily basis through its 55th and Kedzie Office.

14. Total Staffing is in the business of providing third-party client companies, including Capitol Meats, with low- and moderately-skilled laborers to fill jobs on a daily basis through its 3148 S. Ashland office.

15. Elite and Total Staffing acted as an agent of Capitol Meats in recruiting, training, assigning, and paying laborers to work at Capitol Meats.

16. Elite and Total Staffing acted as a joint employer with Capitol Meats in the assignment of laborers to work at Capitol Meats.

17. As part of its business, Elite and Total Staffing recruit low- and moderately-skilled laborers to fill ongoing work orders. When a laborer seeks an assignment through Elite or Total Staffing, the laborers make themselves available to fill daily jobs at third-party client companies, including Capitol Meats, to which Elite and Total Staffing supply labor.

18. From at least July 2014 until July 2017, Capitol Meats directed Elite and Total Staffing not to send African-American laborers to work at their company.

19. From at least July 2014 until July 2017, certain Elite and Total Staffing employees complied with Capitol Meats’ discriminatory requests.

20. During relevant times, the jobs at Capitol Meats did not require any special skills, training, or qualifications.

21. From at least July 2014 until July 2017, Elite and Total Staffing referred many hundreds of laborers for employment at Capitol Meats.

22. In 2016, Veal and Maxey sought work assignments at Elite on multiple occasions while Elite was making referrals to Capitol Meats. Elite occasionally offered Veal and Maxey work assignments, but they never offered Veal and Maxey positions at Capitol Meats, even though such positions were available.

23. At all relevant times, Veal and Maxey were just as qualified to work at Capitol Meats as non-African-American laborers who sought and were given a work assignment at Capitol Meats.

24. During relevant times, other African-American laborers who sought work assignments from Elite were likewise just as qualified to work at Capitol Meats as non-African-American laborers who sought a work assignment from Elite and who were given a work assignment at Capitol Meats.

25. Elite failed or refused to assign Veal, Maxey, and other similarly situated African-American laborers to work at Capitol Meats because of their race.

26. In late 2016 and early 2017, Plaintiff McGee sought work assignments at Total Staffing on multiple occasions while Total Staffing was making referrals to Capitol Meats. Total Staffing occasionally offered McGee work assignments, but it never offered McGee a position at Capitol Meats.

27. At all relevant times, McGee was just as qualified to work at Capitol Meats as non-African-American laborers who sought and were given work assignments at Capitol Meats.

28. During relevant times, other African-American laborers who sought work assignments from Total Staffing were likewise just as qualified to work at Capitol Meats as non-African-American laborers who sought a work assignment from Total Staffing and who were given a work assignment at Capitol Meats.

29. Total Staffing failed or refused to assign McGee and other similarly situated African-American laborers to work at Capitol Meats because of her race.

30. Capitol Meats had the authority to select the laborers that Elite and Total Staffing assigned to work at its facility. Capitol Meats exercised this authority by refusing to accept African-American laborers, and Elite and Total Staffing carried out Capitol Meats' discriminatory requests.

31. Capitol Meats, Elite, and Total Staffing jointly exercised authority in selecting which laborers to assign to work at Capitol Meats, when and how to discipline workers, and the time, place, and scope of the work to be performed.

32. Former Elite and Total Staffing employees have confirmed to Plaintiffs' attorneys that Elite and Total Staffing failed or refused to assign African-American laborers to work at Capitol Meats because they were complying with Capitol Meats' discriminatory request to steer African-American laborers away from its company.

33. On information from former Elite and Total Staffing employees, Elite and Total Staffing knew that they were steering African-Americans away from Capitol Meats and towards other clients and failed to take action to stop this discriminatory conduct.

V. CLASS ACTION ALLEGATIONS

34. Plaintiffs' claims are susceptible to class certification pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure.

35. The Class is defined to include “All African-Americans who sought work assignments through Elite’s 55th and Kedzie office or Total Staffing’s 3148 S. Ashland office between October 24, 2014 and July 31, 2017, who were eligible to work at Capitol Meats, and who, on one or more occasion, were not assigned to work at Capitol Meats.”

36. In addition, separate Subclasses should be certified to include:

- a. For claims against Elite (“Elite Subclass”): “All African-Americans who sought work assignments through Elite’s 55th and Kedzie Office between October 24, 2014 and July 31, 2017, who were eligible to work at Capitol Meats, and who, on one or more occasion, were not assigned to work at Capitol Meats.”
- b. For claims against Total Staffing (“Total Staffing Subclass”): “All African-Americans who sought work assignments through Total Staffing’s 35th and Archer Office between October 24, 2014 and July 31, 2017, who were eligible to work at Capitol Meats, and who, on one or more occasion, were not assigned to work at Capitol Meats.”

37. Certification of the class and subclasses pursuant to Rule 23(a), (b)(2), and (b)(3) is warranted because:

- a. This is an appropriate forum for these claims because, among other reasons, jurisdiction and venue are proper, and the Defendants are located in this judicial district.
- b. The class and subclasses are so numerous that joinder of all members is impracticable. Defendants jointly employed hundreds of African-Americans who sought work assignments through Elite and Total Staffing

from July 1, 2014 and July 31, 2017 and who were qualified to work at Capital Meats.

- c. One or more questions of law or fact are common to the class and subclasses, including:
 - (i) Whether Capitol Meats, Elite, and Total Staffing engaged in a pattern or practice of denying employment to African-American laborers because of their race;
 - (ii) Whether Capitol Meats directed Elite and Total Staffing to not assign African-American laborers to work at Capitol Meats;
 - (iii) Whether Elite, Total Staffing, and Capitol Meats are joint employers of the laborers assigned to work at the Client Companies;
 - (iv) Whether the conduct complained of herein constitutes a violation of Title VII;
 - (v) Whether the conduct complained of herein constitutes a violation of Section 1981;
 - (vi) Whether injunctive relief is warranted against Elite, Total Staffing, or Capitol Meats;
- d. Plaintiffs will fairly and adequately represent and protect the interests of the class and subclass members. Plaintiffs' Counsel are competent and experienced in litigating discrimination and other employment class actions;
- e. The class representatives and the members of the class and subclasses have been subject to, and challenge, the same practices that are being challenged by the class and subclasses;
- f. Issues common to the class and subclasses predominate over issues unique to individual class and subclass members and pursuit of the claims as a

class action is superior to other available methods for the fair and efficient resolution of this controversy.

- g. Adjudication of these claims as a class action can be achieved in a manageable manner.

38. Pursuit of the claims set forth herein through a class action is an appropriate method for the fair and efficient adjudication of this lawsuit.

COUNT I
Violation of 42 U.S.C. § 1981 – Race Discrimination – Disparate Treatment
Plaintiffs Veal and Maxey on behalf of themselves and a class of similarly situated African-
American laborers as against Defendant Elite.
Class Action

Plaintiffs hereby incorporate and re-allege paragraphs 1 through 38 as though set forth herein.

39. This Count arises under 42 U.S.C. § 1981 and challenges Elite’s discriminatory practice of not assigning African-American laborers to work at Capitol Meats based on Capitol Meats’ discriminatory requests.

40. Elite engaged in a pattern and practice of intentional discrimination against Plaintiffs Veal and Maxey and similarly situated African-American laborers based on their race, thereby violating 42 U.S.C. § 1981.

41. Elite engaged in a pattern and practice of intentional discrimination against other similarly situated African-American laborers based on their race, thereby violating 42 U.S.C. § 1981.

42. Because of Elite’s discriminatory practices, Plaintiffs Veal and Maxey and other similarly situated African-American laborers suffered damages of a pecuniary and non-pecuniary nature, humiliation, and degradation.

43. Elite's conduct was willful or reckless, warranting the imposition of punitive damages.

WHEREFORE, Veal and Maxey respectfully pray that this Court:

- A. allow this action to proceed as a class action against Elite pursuant to Rule 23;
- B. enjoin Elite from continuing or permitting future violations of 42 U.S.C. § 1981 for racial discrimination against African-American laborers in the Class;
- C. enter a judgment in their favor and against Elite for back pay, interest and other non-liquidated benefits flowing from the denial of employment as well as punitive damages for Plaintiff and the Class in amounts to be determined at trial;
- D. award all reasonable attorney's fees and costs in bringing this action;
- E. grant such other relief as this Court deems just and equitable.

COUNT II

**Violation of Title VII and 42 U.S.C. § 1981 - Race Discrimination – Disparate Treatment
All Plaintiffs on behalf of themselves and a class of similarly situated African-American
laborers as against Defendant Capitol Meats.
*Class Action***

Plaintiffs hereby incorporate and re-allege paragraphs 1 through 43 as though set forth herein.

44. This Count arises under Title VII and 42 U.S.C. § 1981 and challenges Capitol Meats' discriminatory practice of refusing to allow African-American laborers to work at its facility.

45. Capitol Meats engaged in a pattern and practice of intentional discrimination against McGee, Veal, and Maxey and similarly situated African-American laborers based on their race, thereby violating 42 U.S.C. § 1981.

46. Because of Capitol Meats' discriminatory practices, Plaintiffs McGee, Veal, and Maxey and other similarly situated African-American laborers suffered damages of a pecuniary and non-pecuniary nature, humiliation, and degradation.

47. Capitol Meats' conduct was willful or reckless, warranting the imposition of punitive damages.

WHEREFORE, McGee, Veal, and Maxey respectfully pray that this Court:

- A. allow this action to proceed as a class action against Capitol Meats pursuant to Rule 23;
- B. enjoin Capitol Meats from continuing or permitting race discrimination against African-American laborers at its facility;
- C. enter a judgment in their favor and against Capitol Meats for back pay, interest and other non-liquidated benefits flowing from the denial of employment as well as punitive damages for Plaintiff and the Class in amounts to be determined at trial;
- D. award all reasonable attorney's fees and costs in bringing this action;
- E. grant such other relief as this Court deems just and equitable.

COUNT III
Violation of Title VII – Race Discrimination – Adverse Impact
Plaintiffs McGee, Veal, and Maxey on behalf of themselves and a class of similarly situated
African-American laborers as against Defendant Capitol Meats
Class Action

Plaintiffs hereby incorporate and re-allege paragraphs 1 through 47 as though set forth herein.

48. This Count arises under Title VII for Defendant Capitol Meats' discriminatory policy and practice of choosing Hispanic laborers over African-American laborers to work at Capitol Meats, resulting in a significant adverse impact on Plaintiffs and a class of African-American laborers.

49. Capitol Meats' hiring practices had a disparate impact on African-American job applicants because there were essentially no African-Americans assigned to Capitol Meats during the relevant class period, even though African-Americans make up a large percentage of individuals who apply to work at Elite and Total.

50. Capitol Meats' hiring practices were not justified by business necessity.

51. As a direct and proximate result of Capitol Meats' discriminatory conduct, McGee, Veal, and Maxey suffered damages of a pecuniary and non-pecuniary nature, humiliation, and degradation.

WHEREFORE, Plaintiffs and Class respectfully pray that this Court:

- A. allow this action to proceed as a class action against Capitol Meats pursuant to Rule 23;
- B. enjoin Capitol Meats from continuing or permitting race discrimination against African-American laborers at its facility;
- C. enter a judgment in their favor and against Defendant Capitol Meats for back pay, interest and other non-liquidated benefits flowing from the denial of employment in amounts to be determined at trial;
- D. award all reasonable attorney's fees and costs in bringing this action;
- E. grant such other relief as this Court deems just and equitable.

COUNT IV

**Violation of Title VII and 42 U.S.C. § 1981 – Race Discrimination – Disparate Treatment
Plaintiff McGee on behalf of herself and a class of similarly situated African-American
laborers as against Total Staffing
*Class Action***

Plaintiffs hereby incorporate and re-allege paragraphs 1 through 51 as though set forth herein.

52. This Count arises under 42 U.S.C. § 1981 and Title VII for Defendant Total Staffing's discriminatory practices in assigning laborers to Capitol Meats, which resulted in disparate treatment of Plaintiff McGee and a class of African-American laborers.

53. Total Staffing engaged in assignment practices that discriminated against McGee and other similarly situated African-American laborers on the basis of their race, African-American, thereby violating Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981.

54. Total Staffing's discrimination against McGee and other similarly situated laborers based on their race as African-Americans was intentional.

55. Total Staffing failed or refused to assign African-American applicants to work at Capitol Meats, in favor of Hispanic employees, on the basis of the African-American applicants' race.

56. Total Staffing's failure to assign McGee and other similarly situated African-American laborers to work at Capitol Meats was, at least in part, because it was complying with a discriminatory request from Capitol Meats to steer African-American laborers away from its facility in favor of Hispanic laborers.

57. Total Staffing failed to exercise reasonable care to ensure that its agents for hiring or assigning laborers did not engage in discriminatory hiring practices.

58. Total Staffing's conduct in not assigning McGee and other similarly situated African-American laborers to work at Capitol Meats was willful or reckless, warranting the imposition of punitive damages.

59. As a direct and proximate result of the willful and reckless acts or omissions of Total Staffing, McGee and similarly situated African-American laborers have suffered damages of a pecuniary and non-pecuniary nature, humiliation, and degradation.

WHEREFORE, Plaintiff McGee respectfully prays that this Court:

- A. allow this action to proceed as a class action against Total Staffing pursuant to Rule 23;
- B. enjoin Capitol Meats from continuing or permitting race discrimination against African-American laborers at its facility;
- C. enter a judgment in McGee's favor and against Total Staffing for back pay, interest and other non-liquidated benefits flowing from the denial of employment as well as punitive damages for Plaintiff and Total Staffing in amounts to be determined at trial;
- D. award all reasonable attorney's fees and costs in bringing this action;
- E. grant such other relief as this Court deems just and equitable.

COUNT V
Violation of Title VII - Race Discrimination – Adverse Impact
Plaintiff McGee on behalf of herself and a class of similarly situated African-American
laborers as against Defendant Total Staffing
Class Action

Plaintiffs hereby incorporate and re-allege paragraphs 1 through 59 as though set forth herein.

60. This Count arises under Title VII for Defendant Total Staffing's discriminatory policy and practice of assigning Hispanic laborers over African-American laborers to work at Capitol Meats, resulting in a significant adverse impact on Plaintiff McGee and a class of African-American laborers.

61. Total Staffing's assignment practices had a disparate impact on African-American employees because there were essentially no African-Americans assigned to Capitol Meats during the relevant class period, even though African-Americans make up a large percentage of individuals who apply to work at Total Staffing.

62. Total Staffing's assignment practices were not justified by business necessity.

63. As a direct and proximate result of Total Staffing's discriminatory conduct, McGee suffered damages of a pecuniary and non-pecuniary nature, humiliation, and degradation.

WHEREFORE, Plaintiff McGee respectfully prays that this Court:

- A. allow this action to proceed as a class action against Total Staffing pursuant to Rule 23;
- B. enjoin Total Staffing from continuing or permitting future violations of Title VII for racial discrimination against African-American laborers in the Class;
- C. enter a judgment in Plaintiff's favor and against Total Staffing for back pay, interest and other non-liquidated benefits flowing from the denial of employment in amounts to be determined at trial;
- D. award all reasonable attorney's fees and costs in bringing this action;

E. grant such other relief as this Court deems just and equitable.

Dated: October 24, 2018

Respectfully submitted,

/s/Christopher J. Wilmes

Matthew J. Piers
Christopher J. Wilmes
Hughes Socol Piers Resnick & Dym, Ltd.
70 W. Madison St., Suite 4000
Chicago, IL 60602
(312) 580-0100

Christopher J. Williams
Alvar Ayala
Workers' Law Office, P.C.
53 W. Jackson Blvd, Suite 701
Chicago, Illinois 60604
(312) 795-9121

Attorneys for Plaintiffs

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Capitol Wholesale Meats, Staffing Agencies Accused of Racial Discrimination](#)
