

**UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

MATTHEW FOGG,)	
)	
Complainant,)	
)	
)	EEOC NO. 570-2016-00501X
v.)	AGENCY CASE NO. M94-6376
)	
)	
LORETTA LYNCH, ATTORNEY)	GENERAL,
U.S. DEPARTMENT OF)		
JUSTICE,)	
Agency.)	
)	

AMENDED CLASS CHARGE

I. NATURE OF THE ACTION

1. Class Agents are individuals who have served as Deputy United States Marshals (“DUSMs”) and Detention Enforcement Officers (“DEOs”) who bring this class charge pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), *et seq.*, as amended, against their employer, the United States Marshals Service (“USMS”) to redress longstanding policies and practices of racial discrimination in employment. Class Agents seek relief for themselves and for all Class Members from past and ongoing racial discrimination from January 23, 1994 to present.

A. Procedural History

2. This case has a long and tortured history. On July 12, 1994, then-Deputy United States Marshal Matthew Fogg (“Class Agent Fogg”) filed an administrative class complaint of racial discrimination against USMS, for which he first sought counseling on March 10, 1994. The class administrative complaint, which incorporated by reference and attached the 1992

USMS Ad Hoc Committee Report, asserts claims of race discrimination against African American USMS employees in a variety of employment decisions.

3. Class Agent Fogg's individual claims were tried by a jury in the United States District Court for the District of Columbia, which found for Agent Fogg. The verdict was upheld by the district court, which found that the evidence:

described a U.S. Marshal's Service . . . that has labored in substantial racial turmoil for at least a decade, and in which racial identities are keenly felt. The perception is pervasive on the part of African American members of the Marshal Service that they are less highly regarded and more is expected of them than of their white peers.

Fogg v. Reno, C.A. 94-2814, Mem. Op. at 5 & n. 5 (D.D.C. July 1, 1999). The Court also found that “[t]he USMS concedes that Fogg presented evidence that USMS in general has had a race problem,” and noted that “[t]hree senior African American managers in USMS . . . testified that African Americans are not treated fairly compared to their white counterparts.” *Id.*

4. In March 1996, the Administrative Judge (“AJ”) then assigned to Class Agent Fogg's case dismissed his class claims, finding that his complaint, which he had filed *pro se*, had not been adequately pled. Although Agent Fogg timely appealed the decision, the EEOC Office of Federal Enforcement (“Commission”) mistakenly closed his appeal. Nearly ten years later, in May of 2006, the Commission acknowledged this error and reopened Agent Fogg's class case.

5. Subsequently, in March of 2007, an AJ denied certification of Agent Fogg's class charge. On July 11, 2012, the Commission reversed the AJ's decision and ordered that (1) all of Agent Fogg's class claims be certified under 29 C.F.R. § 1614.204(a)(2), and (2) notice be issued in accordance with 29 C.F.R. § 1614.204(e).

6. Nearly three years later, on November 17, 2015, the Commission denied a motion for reconsideration that had been filed by USMS and again ordered certification of Agent Fogg's

claims and that class notice be issued. 11/17/2015 Commission Decision on Request for Reconsideration (“Comm. Order”) at 8. In so doing, the Commission certified a class consisting of:

African Americans who served in law enforcement or operational positions and were subjected to discrimination in recruitment, assignments, training and promotional opportunities.

Id. at 7. That Order also called for a motion to amend to add new Class Agents, and directed that “The AJ shall respond to the class’s Motion to Amend to add a new class agent, and define the class in accordance with this decision.” *Id.*

B. The History of USMS Discrimination Against African Americans

7. The United States Marshals Service proudly proclaims that it is the nation’s oldest law enforcement agency. Unfortunately, however, the Agency has a long history of continuing discrimination against African American employees. This history and the failure of USMS to remedy its discrimination is documented and reflected in the numerous complaints of systemic discrimination filed as early as 1972, as well as in 1974 and 1991; proposed USMS responses to those complaints in 1973, 1974, 1976, 1977, 1992, and 1996 that never effectively were implemented; as well as this case, which remains unresolved after nearly 23 years. As set forth below, it is also documented in reports by the Department of Justice (“DOJ”) and USMS.

II. CLASS CLAIMS

A. The Legacy of Racial Discrimination at USMS

8. As noted above, USMS has a long, documented history of continuing systematic discrimination against African Americans. African Americans have asserted claims of systemic discrimination at least since the early 1970’s in an effort to remedy this discrimination.

9. USMS has responded to these claims through studies and reports that have largely substantiated these claims and identified some proposed remedial measures, which often were not implemented and have not effectively remedied the continuing discrimination and its effects. For example, administrative claims of race discrimination in 1972 and a civil action in 1974 alleging racially discriminatory promotional and other practices were brought on behalf of African Americans in USMS's DC Office, where one half of all African American DUSMs were assigned. That litigation was dismissed in 1976 as part of a compromise providing for a study by an intradepartmental panel chaired by then Assistant Attorney General Peter. R. Taft.

10. Published in January 1977, the "Taft Report concluded that charges of racial discrimination against the black deputy marshals had been established and that charges of harassment and retaliation because of efforts to enforce equal opportunity and nondiscrimination in federal employment had been sustained." *Bennett v U.S.*, 1982 U.S. Ct. Cl. LEXIS 2359 at *11, No. 565-78 (Ct. Cl. August 4, 1982). The Taft Report found discrimination in promotions, assignments, training and other practices and recommended a series of remedial efforts to be implemented by USMS.

11. In 1991, systemic claims of racial discrimination against African Americans across USMS were again initiated. In response, USMS created the Ad Hoc Committee on Personnel Matters to investigate the claims and make findings and recommendations. The 1992 Report of that Ad Hoc Committee made the findings quoted above regarding perceptions of "a good old boy network" affecting promotions and assignments, and made a number of recommendations for USMS to implement in order to address the claims and findings. Among its findings were that a number of the 1977 Taft Report recommendations regarding promotions and

training had not been implemented, and it recommended that those and other measures should be implemented, including:

That the Service insure the integrity of the processes under which employees are hired, promoted, assigned, evaluated, rewarded, and disciplined, and that the Service adopt a policy of openness concerning processes in the areas of promotions, assignments, and awards so that these processes are readily available to employees or to the scrutiny of employee representatives.

1992 Report, at 11-13, 15.

12. As noted above, in 1994, Class Agent Fogg initiated this charge by filing administrative class claims of systemic racial discrimination against African American USMS employees. The class charge then initiated by DUSM Matthew Fogg included allegations of systemic discrimination in assignments, promotions, hiring and other policies and practices of USMS and referred to and incorporated the claims, findings and recommendations contained in the 1992 Report of the Ad Hoc Committee. As indicated above, USMS did not resolve that class charge, but sought dismissal and then challenged the Commission's order granting class certification.

13. In 1996, the Office of Inspector General of the Department of Justice issued a report on an investigation of an annual gathering of law enforcement personnel known as the "Good O' Boy Roundup" that occurred between 1985 and 1995. The Inspector General found "substantial credible evidence of blatantly racist signs, skits, and actions," including signs that read "nigger checkpoint." The Inspector General indicated in his report that forty-four past and present DOJ employees had attended at least one roundup. On information and belief, some of the past and present DOJ employees reported as participants in the "Good O' Boy Roundup" by the Inspector General were employees of USMS.

14. Despite the more than twenty years that this class charge has been pending, USMS has failed to take meaningful and effective steps to end the continuing pattern and practice of racial discrimination and to remedy the causes and sources of racial discrimination.

15. The “good old boy network” affecting promotions and assignments referred to in the 1992 Report of the Ad Hoc Committee has been preserved and perpetuated at USMS to the detriment of Class Agents and the Class. Indeed, many individuals currently in senior management and decision-making positions at USMS benefited from and have continued the “good old boy network.”

16. For instance, Michael Earp was the Assistant Director of the Investigative Operation Division (“IOD”) at headquarters. In the 1990s, Michael Earp and Class Agent Fogg both applied for a position in IOD. Mathew Fogg was at the top of the Certification List, and the IOD Division Chief at the time indicated that Mr. Fogg would be chosen for the position. Nevertheless, and although he was ranked fourteenth on the certification list, Michael Earp was selected for the position over Agent Fogg by the Director.

17. As another example, John Clark, in his former role as Director of USMS, created eight Senior Executive Service positions and selected no African American DUSMs to fill any of them.

18. The pattern and practice of racial discrimination in USMS is continuing and is manifested in discriminatory employment policies and practices with respect to promotions, assignments, and the recruitment/hiring of operational personnel.

B. Discrimination in Promotions

19. Throughout the period encompassed by this charge and continuing to the present, Class Agents and the Class have been discriminated against with respect to promotions by USMS.

20. As described above, USMS promotion policies, practices, and procedures have been formulated and used as an instrument of intentional racial discrimination in maintaining and furthering the “good old boy network” and its leadership.

21. USMS promotion policies, practices, and procedures also have had a disparate impact on class members compared to their non-African American counterparts. Those policies, practices, and procedures include measures that are not justified by business necessity and measures that are not reliable and valid as required by the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. § 1607 *et seq.* There are alternate selection procedures available to USMS that would have a less racially disparate impact.

22. The continued use of policies and practices with a disparate impact reflects an intent to discriminate against the class in violation of Title VII. These practices also independently constitute intentional discrimination on the basis of race.

23. By statute and regulations, the Director of USMS is vested with the authority to make *all* personnel decisions within USMS. 28 U.S.C. § 561; 28 C.F.R. § 0.111; 28 C.F.R. § 0.138(a). Pursuant to USMS Policy, the Director makes all competitive promotion and lateral transfer decisions under the Merit Promotion Process (“MPP”) (“Competitive Promotions”), and has the authority to direct the reassignment of employees outside of the competitive MPP process (“Directed Reassignments” or “Non-competitive Promotions”). The Director has delegated to the Deputy Director and Associate Directors of Operations (“ADO”) and Administration (“ADA”) the authority in limited circumstances to make Directed Reassignments.

24. Under the MPP, the Director makes the final selections of candidates for positions or cancels vacancies after receiving recommendations from the Career Board and the

Recommending Official. There is no process, and there are no benchmarks, guidelines, or criteria to be followed by the Director in making selections or cancellations, or by the Career Board or Recommending Official in making rankings of candidates recommended to the Director. This unguided ranking and selection process has a disparate impact on African Americans in promotions, is not reliable or valid, is not justified by business necessity, and perpetuates the existence of the “good old boy network.”

25. African American candidates are disproportionately denied promotions through the MPP, and are disproportionately ranked as the number one candidate among positions cancelled by the Director.

26. For example, as described more fully below, Class Agents Charles Fonseca, Ivan Baptiste, Thomas Hedgepeth, Tony Gause, and Regina Holsey all applied for promotions through the MPP and were included on the Best Qualified List forwarded to Recommending Officials and to the Career Board for ranking and were discriminatorily denied promotions by the Director’s selections.

27. USMS policies and practices also discriminate against African American DUSMs in promotions by: (1) failing to provide effective notice of open positions; (2) canceling positions when non-African American applicants do not receive a sufficiently high merit promotion ranking to qualify for the position; (3) giving non-African American deputies “temporary” promotions that are later turned into permanent positions; and (4) using “selective placement factors” to select particular non-African American deputies for promotions.

28. Despite some superficial changes (*e.g.*, the renaming of “Career Development Board” to “Career Board”), the Merit Promotion Process has operated in a similar manner at least since 1994, including the Ranking and Selection Process by Recommending Officials, the

Career Board, and the Director.

29. Other USMS policies and practices discriminate against African American DUSMs in promotions. For instance, USMS cancels positions before the Ranking and Selection Process when African American candidates are highly ranked.

30. For example, in the spring of 2010, Class Agent Holsey applied for a GS-14 position, made the Best Qualified List, and interviewed for the position. Minutes after the interview concluded, however, DUSM Holsey was advised that the position had been cancelled. DUSM Holsey applied for the position when it was re-announced in July 2010 and once again made the Best Qualified List, but USMS awarded the promotion to a non-African American male. The selected individual had not applied for the position when it was first announced but the Agency reopened the position once it learned of his interest.

31. USMS policy provides that the existence of an Internal Affairs (or Office of Investigations) investigation can disqualify an otherwise qualified candidate from receiving a promotion. This policy is used to disqualify African American DUSMs from promotion and allows and encourages baseless investigations to be initiated against African American DUSMs in order to deny them promotions.

32. For instance, former DUSM Wanda Griffin applied to a GS-14 position in August 2006 for which she was well qualified, interviewed for the position and made the top five cert list. In January 2007, shortly before the Career Board was scheduled to meet, she was notified that she was the subject of an Internal Affairs investigation and so could not be considered for the position. USMS Director selected a non-African American candidate for the position, and DUSM Griffin was informed several months later that the Internal Affairs investigation had not substantiated any claims against her.

33. USMS practices also include failing to create Best Qualified Lists (“BQL”) in the manner prescribed by its policies, resulting in discrimination against Class Agents and the Class. For instance, USMS has failed to follow its policy that the BQL is to include promotional candidates whose MPP application score falls within one point of the lowest scoring promotional candidate on the BQL. Thus, in 2012, Class Agent Gause applied for two GS-13 positions, and scored within .06 points of the lowest-scoring non-African American promotional candidate on the Best Qualified List for both positions. Despite qualifying for the BQL, USMS excluded Class Agent Gause from the BQL and thus prevented him from being subject to selection for both positions.

C. Discrimination in Headquarters Division Assignments

34. USMS Headquarters (HQ) division assignments are accomplished through and the result of promotion, directed reassignment, transfer, and related decisions made by USMS Director and the limited number of Director designees. HQ division assignments are racially identifiable, substantially segregate African Americans at HQ, and disproportionately exclude African American employees from the most prestigious divisions and duties. This, in turn, disadvantages African American DUSMs in the Merit Promotion Process, because they are denied access to the same qualifying duties, assignments, and opportunities as non-African American DUSMs.

35. Specifically, African Americans hold DUSM positions in the Investigative Operations Division (“IOD”) and Tactical Operations Division (“TOD”) at significantly lower rates than their non-African American colleagues. The racial disparity in IOD and TOD positions has had a segregative effect on the HQ workforce; as of 2011, more than half of all white HQ DUSMs held positions in these 95% white divisions. Employees typically apply for positions in

IOD and TOD through the Merit Promotion Process, which, as discussed above, disadvantages African Americans.

36. For example, in 2004, Class Agent Fonseca was denied a position in the predominantly white IOD at Headquarters in favor of an equally or less-qualified non-African American. On information and belief, Mr. Fonseca also applied for but was denied positions in IOD in April 1998 and April 2001 in favor of non-African American employees with equal or lesser qualifications.

37. As another example, after Class Agent Hedgepeth transitioned out of an Acting Marshal position in April 2012, he was reassigned to a primarily administrative HQ division without regard for his preferences. By contrast, USMS reassigned another employee to open a prestigious role for a similarly situated non-African American former Acting Marshal.

D. Discrimination in Recruitment/Hiring

38. USMS discriminates against African American candidates by not selecting them for hire as DUSMs, instead selecting comparably or less-qualified non-African American candidates for those positions. USMS also disproportionately eliminates or disadvantages African American candidates from the hiring process by subjecting them to standards not applied to non-African American employees.

39. Decisions to hire candidates as DUSMs are made by the Human Resources Department at USMS headquarters. USMS Policy Directive 3.1, *Personnel Authority and Actions*, Section A.1.c, provides that the authority to appoint DUSM candidates is vested in the Assistant Director of Human Resources or a designee. While Human Resources occasionally solicits the feedback of district-level employees, all internal rankings and final decisions are made

by Human Resources. There has never been an African American Assistant Director of Human Resources during the liability period in this matter.

40. When USMS hires for open DUSM positions, current employees such as DEOs can apply as candidates. These employees are hired under a process similar to other candidates. DEOs complete a shorter application because they already are USMS employees, but they are ranked by HR alongside external candidates.

41. Although African American DEOs are well qualified to be DUSMs because they perform similar duties and complete an abbreviated version of DUSM training at USMS Academy, USMS has discriminatorily refused to hire African American DEOs as DUSMs. For example, USMS repeatedly rejected the applications of Class Agent Tracey Bryce for hire as a DUSM, despite her qualifications, from 1992 until her retirement in 2015. DEO Bryce applied for DUSM positions in approximately 1992, 1996, 2000, 2002, 2006, 2010, and 2010. Upon information and belief, USMS Human Resources solicits the views of certain non-African American district-level DUSMs regarding internal candidates for DUSM positions who express negative views of African American DEOs. For example, DEO Bryce regularly observed and experienced racism among her predominantly non-African American DUSM colleagues, who frequently used racial slurs, such as “monkey man” and “nigger” when addressing both African American employees and prisoners.

42. USMS also consistently rejected the applications of Class Agent Theodore Riley for hire as a DUSM from approximately 1987 to 2002, despite his qualifications. DEO Riley regularly applied to DUSM positions but was never hired. In addition, USMS subjected him and DEO Bryce to obstacles not faced by other non-African American applicants. For example, in 1996, USMS required DEOs Riley and Bryce to fly to Ohio for an interview at their own expense, informing them that interviews were not offered in the DC area. DEOs Riley and Bryce later

learned white DUSM candidates were offered interviews in the DC area for the same round of applications. Neither DEO Riley nor Bryce was selected for a DUSM position.

43. Because of the Defendant's systemic pattern and practice of racial discrimination, Class Agents and the class they represent have been adversely affected by these policies and practices and have experienced harm, including loss of back pay, benefits, and promotional opportunities and positions.

44. The Class Agents and class members are currently suffering injury from USMS's unlawful policies, practices, and procedures as described herein, and will continue to suffer unless those policies, practices, and procedures are remedied.

V. CLASS DEFINITION:

45. Pursuant to the Commission's November 17, 2015 Order, Class Agent Fogg's Motion to Amend, and this Amended Charge, Class Agents the appropriate Class definition is:

All current and former African American Deputy U.S. Marshals and Detention Enforcement Officers who were subjected to USMS policies and practices regarding promotions, including reassignments and transfers, Headquarters Division assignments, and hiring and recruitment from January 23, 1994 to present.

VI. CLASS AGENTS' CLAIMS

46. **Class Agent Antonio Gause** is an African American DUSM who has been employed with USMS since 2005. He is currently a GS-12 DUSM in Baltimore, Maryland. Since 2012, Class Agent Gause has been denied multiple promotions to GS-13 DUSM positions in favor of similarly-situated non-African American employees.

47. For example, in 2012, Mr. Gause was denied the opportunity to compete for two GS-13 promotions because USMS refused to include him on the Best Qualified List for these positions. By contrast, at least one non-African American candidate with a substantially similar

application score was placed on the BQL for both positions. In 2014, Mr. Gause again applied for but was denied three GS-13 positions.

48. Class Agent Gause is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class promotion claim. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

49. **Class Agent Regina Holsey** is an African American DUSM currently employed by USMS in the Northern District of Georgia. Ms. Holsey began working for USMS in January of 1995. She has served as a DUSM at the GS-7 through GS-13 levels. She currently is a GS13 DUSM.

50. Class Agent Holsey has been denied multiple promotions, despite having the necessary qualifications. For instance, it took Ms. Holsey more than seven years to be promoted from the GS-12 to GS-13 level.

51. Class Agent Holsey was denied at least two promotions in favor of non-African Americans. For instance, in 2010, Ms. Holsey applied for a GS-14 position and made the Best Qualified List. The position was cancelled and reopened in order to permit a non-African American employee to apply, who USMS Director then selected for the position. Class Agent Holsey is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class promotion claim. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

52. **Class Agent Hedgepeth** is an African American DUSM. Mr. Hedgepeth began working for USMS in 1991, during the period of this charge has served as a DUSM at the GS11 through 15 levels, and is currently a GS-15 Chief Inspector at the Office of Security, Safety, and Health, in the Management and Support Division at USMS Headquarters.

53. Class Agent Hedgepeth has been denied promotions throughout his tenure with USMS. For example, Mr. Hedgepeth applied for, and was denied, numerous GS-14 promotions during his tenure as a GS-13 from 1997 to 2008. In addition, he was eligible for GS-15 promotions by 2007 because he had accrued considerable time serving in “acting” GS-14 and GS-15 positions, yet he was similarly denied promotions to GS-15 positions.

54. Class Agent Hedgepeth was also denied lateral transfers considered promotions through the Merit Promotion Process. For example, in April 2011, he applied for a prestigious lateral GS-15 position and was automatically included on the Best Qualified List; however, USMS selected a non-African American candidate with fewer years of experience and who Class Agent Hedgepeth previously supervised.

55. Class Agent Hedgepeth was also subjected to discriminatory assignment policies, including as to Headquarters divisions. After he transitioned out of an Acting Marshal position in April 2012, Mr. Hedgepeth was reassigned to a primarily administrative HQ division without regard for his preferences. By contrast, USMS reassigned another employee to open a prestigious role for a similarly situated non-African American former Acting Marshal.

56. Class Agent Hedgepeth is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class promotion and assignment claims. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

57. **Class Agent Charles Fonseca** is an African American who was employed as DUSM from 1985 to 2005. Class Agent Fonseca was a GS-12, GS-13, and GS-14 during the liability period in this matter.

58. Class Agent Fonseca applied for numerous GS-13 promotions from 1990 to 1998, including a GS-13 position at the Academy in the 1990s, but was regularly denied in favor of non-

African American candidates. During this time, he consistently made the list of the top five most qualified candidates due in part to his excellent academic credentials. Yet, he did not receive a promotion to the GS-13 level until December 1998, or to the GS-14 level until 2002. While Class Agent Fonseca served as an Acting GS-15 at USMS Headquarters, USMS denied him multiple promotions to the GS-15 level in favor of non-African American candidates.

59. Mr. Fonseca was also discriminatorily denied Headquarters assignments in favor of similarly-situated non-African Americans. As discussed more fully above, upon information and belief, in 1998, 2001, and 2004, Mr. Fonseca was denied positions in the predominantly white IOD in favor of non-African Americans with equal or lesser qualifications.

60. Class Agent Fonseca is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class promotion and assignment claims. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

61. **Class Agent Ivan Baptiste** is an African American former DUSM. Class Agent Baptiste worked for USMS from 1977 until his retirement in June 2008.

62. Class Agent Baptiste was employed at the GS-13 level throughout the liability period in this matter. He was first promoted to GS-13 in 1992, and began applying for GS-14 positions in 1994. Despite consistently making the list of the top five most qualified candidates for GS-14 promotional positions, USMS denied Mr. Baptiste promotions, predominantly in favor of non-African American candidates, until his retirement in 2008.

63. Class Agent Baptiste is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class promotion claim. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

64. **Class Agent Tracey Bryce** is an African American former DEO employed by USMS in the District of Columbia. Ms. Bryce worked for USMS as an Administrative

Assistant at the GS-5 and GS-6 level from 1992 to 1994, and as a DEO at the GS-7 and GS-8 level from 1994 until her retirement in August 2015.

65. USMS discriminatorily denied Class Agent Bryce's applications for employment as a DUSM throughout her tenure, including in approximately 1992, 1996, 2000, 2002, 2006, 2010, and 2010.

66. USMS also subjected Ms. Bryce to differing levels of scrutiny during the DUSM hiring process as compared to non-African American employees; for example, they required her to re-do a fitness exam in another District so that she would not be tested by colleagues, but permitted non-African American employees to undergo fitness exams in their own Districts during the process.

67. Class Agent Bryce is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class recruitment and hiring claims. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

68. **Class Agent Theodore Riley** is an African American former DEO who worked for USMS in the District of Columbia from approximately 1987 to 2002 at the GS-7 level.

69. USMS denied Class Agent Riley's applications for employment as a DUSM throughout his tenure, including in approximately 1993, 1994, 1995, and 1996. USMS also subjected Class Agent Riley and other African American applicants to additional obstacles during the DUSM hiring process, including requiring him to undergo an interview in Ohio instead of his home location of DC while permitting similarly situated non-African American

DUSM applicants to interview in DC.

70. Class Agent Riley is a member of the class certified by the Commission and is an adequate and typical Class Agent for the class recruitment and hiring claims. *See* 29 C.F.R. § 1614.204(a)(2)(iii) and (iv).

PRAYER FOR RELIEF

Class Agents, on behalf of themselves and members of the Class, request an Order providing systemic relief for the class and individual relief to class members with regard to USMS promotion, HQ assignment, and hiring policies and practices, pursuant to 29 C.F.R. § 1614.204(i)&(l), and § 1614.501.

Dated: June 30, 2016

By: /s/ Thomas J. Henderson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic mail on this 30th day of June, 2016 upon the following counsel of record:

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