

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>JANICE LINTZ, TYLONDA MASON, and DAVID TINDRELL, Individually and on Behalf of Others Similarly Situated,</p> <p>Plaintiffs,</p> <p>v.</p> <p>WELLMARK, INC. (d/b/a WELLMARK BLUE CROSS AND BLUE SHIELD OF IOWA), JOHN BAKER, RONA BERINOBIS, RYAN BRUNNER, JOHN FORSYTH, LISA HEAGLE, BORIS KOGAN, JARED LANDIN, MICHAEL MATUSZAK, LISA MEHLE, and CHERYL RYAN,</p> <p>Defendants.</p>	<p>Case No. LACL147941</p> <p>CLASS ACTION PETITION and JURY DEMAND</p>
--	--

COME NOW Plaintiffs Janice Lintz, Tylonda Mason, and David Tindrell, by and through counsel Roxanne Conlin & Associates, P.C., on behalf of themselves and all others similarly situated, and hereby bring their claims against Wellmark, Inc. (D/B/A Wellmark Blue Cross and Blue Shield of Iowa), John Baker, Rona Berinobis, Ryan Brunner, John Forsyth, Lisa Heagle, Boris Kogan, Jared Landin, Michael Matuszak, Lisa Mehle, and Cheryl Ryan and state to the Court as follows:

INTRODUCTION

1. Defendant Wellmark is an insurance company, a successor to Blue Cross/Blue Shield, and an employer to approximately 1900 people in Des Moines, Polk County, Iowa. Polk County has an African American population of 6 percent. On information and belief, Wellmark employs, at relevant times, approximately 70 African Americans, well below 6 percent of its total workforce.

2. This is a class action race discrimination case under the Iowa Civil Rights Act. African Americans have been systematically denigrated and harassed, denied training opportunities and mentorship given to Caucasian employees, been excluded from promotions, subjected to higher and more subjective standards than other employees in all aspects of employment, and required to meet more onerous criteria than their coworkers.

3. The class representatives are long-term exemplary employees. The Defendants have made their judgements about them and other African Americans based on explicit and implicit racial biases. The individual claims of the class representatives require the resolution of the common question of whether Defendants engaged in a systematic pattern and practice of discrimination against African American employees.

4. Plaintiffs seek remedies to eliminate the adverse effects of such discrimination in their own lives, careers, and working conditions; and in the lives, careers, and working conditions of the proposed class members, and to prevent continued race discrimination in the future. Plaintiffs have standing to seek such relief because of the adverse effect race discrimination has had on them individually and on African American employees at Wellmark generally.

5. The patterns, practices, and/or policies described in this petition demonstrate that Wellmark's violations of the Iowa Civil Rights Act are not sporadic or unusual; rather, they are part and parcel of its standard operating patterns, practices, and/or policies.

6. By filing this petition, Plaintiffs are preserving the rights of the class members with respect to the statute of limitations on their claims under the Iowa Rules of Civil Procedure 1.277. Therefore, not certifying the class would substantially impair and/or impede the other class members' ability to protect their interests.

7. Declaratory and injunctive relief are the factual and legal predicates for Plaintiffs and the class entitlement to monetary and non-monetary remedies for individual losses caused by, and the exemplary purposes necessitated by, such discrimination and retaliation.

JURISDICTION AND VENUE

8. The race discrimination, whether explicit or implicit, to which the Plaintiffs and the class of individuals they seek to represent are subjected, are unlawful employment practices under the Iowa Civil Rights Act, Iowa Code Chapter 216.

9. The race discrimination, by Defendants, occurred more than 300 days prior to and after the filing of the civil rights complaints with the Iowa Civil Rights Commission submitted by Plaintiffs was ongoing and continuing in nature up to and including present day and as such, constitutes continuing violations under the Iowa Code § 216.

10. Venue is properly laid in this judicial district pursuant to Iowa Code § 616.18 given that injury or damage was sustained in Polk County, Iowa.

PARTIES

11. At all times material to this complaint, Plaintiff Janice Lintz (“Lintz”) was a citizen and resident of Polk County, Iowa, and was employed at Defendant Wellmark.

12. At all times material to this complaint, Plaintiff Tylonda Mason (“Mason”) was a citizen and resident of Polk County, Iowa, and was employed at Defendant Wellmark.

13. At all times material to this complaint, Plaintiff David Tindrell (“Tindrell”) was a resident of Polk County, Iowa, and was employed at Defendant Wellmark.

14. At all times material to this complaint, Defendant Wellmark, Inc. (“Wellmark”) was a corporation organized and existing under the laws of the State of Iowa with its principal place of business in Polk County, Iowa at 1331 Grand Avenue, Des Moines, Iowa.

15. At all times material to this complaint, Defendant John Baker (“Baker”) was a citizen and resident of Polk County, Iowa.

16. At all times material to this complaint, Defendant Baker was an employee of Wellmark and most recently held the position of Process Excellence (“PE”) Interim Team Leader.

17. At all times material to this complaint, Defendant Rona Berinobis (“Berinobis”) was a citizen and resident of Polk County, Iowa.

18. At all times material to this complaint, Defendant Berinobis was an employee of Wellmark and most recently held the position of Vice President of Inclusion and Organizational Development.

19. At all times material to this complaint, Defendant Ryan Brunner (“Brunner”) was a citizen and resident of Polk County, Iowa.

20. At all times material to this complaint, Defendant Brunner was an employee of Wellmark and most recently held the position of Account Management Team Leader.

21. At all times material to this complaint, Defendant John Forsyth (“Forsyth”) was a citizen and resident of Polk County, Iowa.

22. At all times material to this complaint, Defendant Forsyth was an employee of Wellmark and most recently held the position of Chairman and Chief Executive Officer (“CEO”).

23. At all times material to this complaint, Defendant Lisa Heagle (“Heagle”) was a citizen and resident of Polk County, Iowa.

24. At all times material to this complaint, Defendant Heagle was an employee of Wellmark and most recently held the position of Vice President of Process Excellence (“PE”).

25. At all times material to this complaint, Defendant Boris Kogan (“Kogan”) was a citizen and resident of Polk County, Iowa.

26. At all times material to this complaint, Defendant Kogan was an employee of Wellmark and most recently held the position of Director of Enterprise Cloud Services

27. At all times material to this complaint, Defendant Jared Landin (“Landin”) was a citizen and resident of Polk County, Iowa.

28. At all times material to this complaint, Defendant Landin was an employee of Wellmark and most recently held the position of Senior Vice President of Operations.

29. At all times material to this complaint, Defendant Michael Matuszak (“Matuszak”) was a citizen and resident of Polk County, Iowa.

30. At all times material to this complaint, Defendant Matuszak was an employee of Wellmark and most recently held the position of Vice President of Cloud Services, Chief Information, and Security Officer.

31. At all times material to this complaint, Defendant Lisa Mehle (“Mehle”) was a citizen and resident of Polk County, Iowa.

32. At all times material to this complaint, Defendant Mehle was an employee of Wellmark and most recently held the position of Director of HR Consulting and Operations.

33. At all times material to this complaint, Defendant Cheryl Ryan (“Ryan”) was a citizen and resident of Polk County, Iowa.

34. At all times material to this complaint, Defendant Ryan was an employee of Wellmark and most recently held the position of HR Business Consultant.

PROCEDURAL REQUIREMENTS

35. On July 5, 2019, within 300 days of the acts of which she complains, Plaintiff Lintz filed a charge of employment discrimination and retaliation with the Iowa Civil Rights Commission against Defendants.

36. On April 25, 2019, within 300 days of the acts of which she complains, Plaintiff Mason filed a charge of employment discrimination and retaliation with the Iowa Civil Rights Commission against Defendants.

37. On April 30, 2019, within 300 days of the acts of which he complains, Plaintiff Tindrell filed a charge of employment discrimination and retaliation with the Iowa Civil Rights Commission against Defendants.

38. On February 24, 2020, less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission administratively closed Plaintiff Lintz's case and issued to her an Administrative Release and Letter of Right-to-Sue pursuant to Iowa Code Chapter 216.16.

39. On February 24, 2020, less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission administratively closed Plaintiff Mason's case and issued to her an Administrative Release and Letter of Right-to-Sue pursuant to Iowa Code Chapter 216.16.

40. On February 24, 2020, less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission administratively closed Plaintiff Tindrell's case and issued to him an Administrative Release and Letter of Right-to-Sue pursuant to Iowa Code Chapter 216.16.

CLASS ACTION ALLEGATIONS

41. Plaintiffs are bringing this action pursuant to the Iowa Civil Rights Act on behalf of the class identified below.

42. Defendants have acted on grounds, described herein, generally applicable to the Plaintiffs and the members of the class, by adopting and following systemic patterns, practices, and/or policies that are discriminatory and retaliatory against Plaintiffs and the class.

43. The proposed class consists of all African American individuals who were improperly denied promotion and/or discriminated against because of their race or color in terms and conditions of employment or who were wrongfully terminated or retaliated against because they complained about this treatment by Defendants Wellmark, Inc., John Baker, Rona Berinobis, Ryan Brunner, John Forsyth, Lisa Heagle, Boris Kogan, Jared Landin, Michael Matuszak, Lisa Mehle, and Cheryl Ryan.

44. The named Plaintiffs are representatives of an ascertainable class comprised of African American Wellmark employees or former employees who live within the State of Iowa.

45. Plaintiffs are informed and believe, and on that basis allege, that the membership of this class likely includes dozens of individuals. The class is so numerous that joinder of all members is impracticable. Joinder is also impracticable because class members reside in several different counties and judicial districts within the State of Iowa.

46. Accordingly, certification of the proposed class is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for Plaintiffs and Defendants.

47. There are questions of law and fact that are common to each member of the class, including, but not limited to:

- i. Whether Defendants engaged in sustained, continuous patterns and practices of race discrimination against African American employees and former employees in the terms and conditions of employment;

- ii. Whether the individuals are a member of the relevant protected class;
- iii. Whether the individuals suffered an adverse employment action;
- iv. Whether the Defendants impermissibly considered an individual's membership in a protected class in violation of the Iowa Civil Rights Act; and
- v. Whether such reliance violates the Iowa Civil Rights Act.

48. There is a common interest among members of the class with respect to these questions of law and fact. The named Plaintiffs' claims are typical and representative of the claims of absentee members of the class. The named Plaintiffs' claims also fairly encompass the claims of the absentee members of the class. Moreover, the named Plaintiffs and absentee members of the class are similarly situated and have been harmed by the same pattern and practice of unlawful conduct alleged herein.

49. It is further appropriate to proceed with this action on behalf of the class members because:

- i. The prosecution of separate actions by individual members of the class would create the risk of inconsistent or varying adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for Defendants;
- ii. As a practical matter, adjudications with respect to the individual members of the class would be dispositive of the interest of other members not parties to the adjudications, and/or would substantially impair or impede their ability to protect their interests; and
- iii. The questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is

superior to the other available methods for the fair and efficient adjudication of this action.

50. Plaintiffs have retained attorneys who are skilled litigators with substantial class action experience and expertise. The lawyers have agreed to advance the costs of the out-of-pocket expenses of this litigation and have the ability to do so.

51. Plaintiffs wish to represent themselves and all others similarly situated.

52. The all-inclusive amount of money claimed by members of the class is less than \$5,000,000.00 including attorney's fees and costs.

FACTUAL BACKGROUND – ALL NAMED PLAINTIFFS

53. Named Plaintiffs are three African American Wellmark employees who all currently work at Defendant Wellmark in Des Moines, Iowa.

54. Plaintiffs are informed and believe that other workers in protected classes were improperly denied promotion and faced discrimination before and after June 24, 2018, and that they are and should be part of the class.

FACTUAL BACKGROUND – PLAINTIFF JANICE LINTZ

55. Plaintiff Lintz began working for Defendant Wellmark in 1981 and most recently held the position of Organizational Learning & Development Consultant at Grade 20.

56. Plaintiff Lintz has repeatedly asked for more training and more one-on-one mentoring. She has been ignored. Caucasian employees are offered this kind of training and mentorship routinely.

57. In January 2014, Plaintiff Lintz joined the Inclusion Council.

58. In February 2014, Plaintiff Lintz was asked to write an article for Black History Month for the Inclusion Council. Plaintiff Lintz wrote an article on the evolution of

achievements of African Americans, from slavery to the presidency. Plaintiff Lintz was told by Muriel Pemble (Caucasian), Senior Technical Communications Writer, that, per Defendant Berinobis (Asian), Inclusion Council Vice Chair and Human Resources Vice President, Plaintiff needed to remove any reference of overcoming slavery because of the negativity associated with slavery. Plaintiff Lintz did so, but was flabbergasted by the racism and felt insulted by the request.

59. On August 29, 2016, it was announced at an all-technology division meeting that there would be divisional reorganization. Plaintiff Lintz was reassigned to Process Excellence (“PE”), reporting to Defendant Heagle, PE Vice President, effective October 1, 2016. Plaintiff Lintz’s position was changed from Process Improvement Consultant II to PE Consultant II.

60. She carried over two active projects she started while in IT. She was told not to put those projects on the PE website of projects. The projects were not tracked, even though Plaintiff Lintz continued to work on them through 2016 and one into 2017.

61. On January 1, 2017, Plaintiff Lintz became Inclusion Council Workplace Communication Chair. Plaintiff Lintz was responsible for publishing two articles per week to run on Defendant Wellmark’s website, rather than one article as had been required of the past Chair.

62. On January 19, 2017, Plaintiff Lintz received her 2016 performance review with a “meets expectations” rating. Plaintiff Lintz mentioned to Defendant Heagle that she would like to take Black Belt training so she could become Black Belt certified and be eligible for a promotion to PE Consultant III. Defendant Heagle stated that Black Belt certification was no longer necessary for the promotion.

63. On August 16, 2017, Plaintiff Lintz met with Defendant Heagle for a mid-year performance review. She was not rated.

64. Plaintiff Lintz had just completed a highly successful project, Compass Workflow, which was celebrated by three days of festivities for over 200 staff members in the Operations Division and in all three Wellmark locations. The three celebrations were joined by Senior Leaders Marci Chickering (VP of Human Resources) and Vicki Signor (VP of Operations). Defendant Heagle was invited to several of the celebrations but she attended none.

65. She again asked Defendant Heagle what she would need to do to receive a promotion. Defendant Heagle said they would meet later to further discuss it. They did not.

66. On September 5, 2017, Plaintiff Lintz learned Defendant Heagle was being replaced by Defendant Baker, who would be the new interim team leader.

67. About a week later, during Monday morning standup, Defendant Baker stated that two projects were available and Plaintiff Lintz said she could take one. Later that day, Defendant Baker sent an email asking who could take on the projects even though Plaintiff had already expressed she could do it. Plaintiff Lintz immediately replied in the group email repeating that she could take one. A teammate of Plaintiff Lintz, Sara Haugen, responded after she did, saying she could take it. Defendant Baker said Plaintiff Lintz and Sara Haugen, could tag team the project, even though there were two projects available and Plaintiff had already expressed her willingness to do one of them.

68. On October 4, 2017, Plaintiff Lintz's team was asked for volunteers to take on a Production Timing project. Plaintiff Lintz immediately said she could take it on. However, she was paired with a teammate, Jason Mueller, and was told she would be lead consultant. When the assignment came out, Mr. Mueller was the lead even though Plaintiff Lintz had more overall experience than Mr. Mueller, and had initially been told she would be named the lead.

69. A similar situation occurred on November 14, 2017, when Plaintiff Lintz was again paired with Mr. Mueller on a production timing project and he was made the lead again.

70. On December 7, 2017, Plaintiff Lintz met with Defendant Baker for her performance review. Plaintiff Lintz received a “does not meet expectations” rating. His explanation for that rating was that he felt Plaintiff hadn't completed as many projects as others and the project did not result in administrative savings.

71. The project resulted in immediate relief and long-term overhaul.

72. Plaintiff Lintz told Defendant Baker that she was given the assignments and the goals, and they did not include administrative savings.

73. Plaintiff Lintz stated that administrative savings was not a stated focus for their department until July, after Plaintiff's Compass Workflow assignment was implemented. She had been asking for additional projects since, but she could not select which ones were assigned to her.

74. Plaintiff Lintz later told Defendant Baker that she did not agree with his review and was expecting to have conversations about a promotion.

75. On December 13, 2017, Defendant Baker told Plaintiff Lintz he had spoken with their HR business partner, Defendant Ryan, and Defendant Landin, Vice President of Audit, and had decided to change Plaintiff's rating to “meets expectations.”

76. A few days later, Plaintiff Lintz met with Defendant Landin and Defendant Baker to discuss the performance rating situation. Defendant Baker said Plaintiff Lintz was now on track with quantity measures. The types of projects Plaintiff Lintz was completing had broad impacts on the company and were widely celebrated. Defendant Landin said they would see how the upcoming months worked out and then assess Plaintiff's promotability.

77. On January 5, 2018, Defendant Berinobis said Wray Ludington, Culture and Inclusion Communication Consultant, felt Plaintiff was not getting enough articles submitted to him weekly. Plaintiff Lintz had already expressed several times that it was tough for everyone on her committee to keep up with that timeline, especially during the 4th quarter. Plaintiff Lintz said in the past she spent about 200 hours a year on Inclusion Council activities, but in 2017 she had spent over 400 hours.

78. Plaintiff Lintz asked Defendant Berinobis if they could either (1) decrease the requisite number of articles to one (as it was previously) or (2) get support from other committees in writing and editing the articles. Defendant Berinobis said no to both.

79. Plaintiff Lintz stepped down from the Inclusion Council Workplace Communication Chair position. Kayla Smith (Asian, as is Defendant Berinobis) was named as Plaintiff Lintz's replacement.

80. On November 21, 2018, an email from Mr. Ludington was sent out on behalf of the Communication Committee soliciting articles from others, something Plaintiff Lintz was told she could not do less than a year earlier.

81. On February 1, 2018, Plaintiff Lintz met with Defendant Landin to evaluate the Compass Workflow project for administrative savings. Defendant Landin told Plaintiff that, shortly after the meeting, he had a conversation with Defendant Forsyth who said how impressed he was with the presentation and project results.

82. Compass Workflow was the only project, at that time, which resulted in true administrative "hard" savings for the Process Excellence team. The other projects resulted in unrecognized categories or "soft" savings.

83. In April 2018, Plaintiff Lintz told Laurie Dickinson, a senior in the Process Excellence team, that Compass Workflow effort was targeted for 2018. Plaintiff Lintz was told that it would be a larger project and that she would be involved given her earlier success.

84. On October 11, 2018, Plaintiff Lintz learned that the project had been assigned to Mr. Mueller.

85. When Plaintiff Lintz asked Defendant Landin why she was not assigned to it after having previously been told she would be, he said it needed to be done quickly and the approach she would have taken would have taken too long. He never discussed this with her, nor is there any objective support for his unwarranted conclusion.

86. Plaintiff Lintz asked Defendant Landin how he knew “what approach she would have taken,” considering Plaintiff did not know what approach she would have taken. Defendant Landin back tracked and said no one had asked for Plaintiff Lintz to lead the project. Plaintiff Lintz asked him who he asked about who should lead. He said the analyst who was hired for the new role created as a result of Plaintiff Lintz’s project. The analyst was not part of the project nor had she previously worked with Plaintiff.

87. Plaintiff Lintz expressed to Defendant Landin her disappointment and surprise because two team leaders and champions (both directors) of the project were not asked. Defendant Landin did not even attempt to respond.

88. On October 11, 2018, Plaintiff Lintz learned the PE team could be eliminated or reduced in numbers. Defendant Landin said he was working with HR to come up with new criteria with which to assess the skills of those on the team. Defendant Landin would align them with the new roles that he would be implementing.

89. Plaintiff Lintz asked if he would be using feedback from the leaders of the projects delivered along with that of feedback from teammates on projects. Defendant Landin said no. He said his opinion would not be impacted by the feedback from the business/projects teams.

90. On May 24, 2018, Plaintiff Lintz asked Defendant Landin if he had a chance to meet with people who had worked with her on projects to get their feedback regarding her work performance. He did not, but said he was going to.

91. During this meeting, Plaintiff Lintz said that when Defendant Heagle was her team leader, Plaintiff was in discussions with her about a promotion and that is why Plaintiff was shocked with her rating from Defendant Baker. Plaintiff Lintz and Defendant Landin then discussed areas where he felt she could develop.

92. On November 4 and 5, 2018, members of the Inclusion Council interviewed 12 candidates for new membership. Only one was African American.

93. After the interviews, Plaintiff Lintz told Defendant Berinobis that she was disappointed about the lack of diversity on what was actually called the Inclusion Committee. Defendant Berinobis said they would talk about how to change this for the next year. Defendant Berinobis and Plaintiff Lintz never discussed this issue further.

94. On January 21, 2019, Plaintiff Lintz attended an Inclusion Council meeting. During round table, Plaintiff Lintz shared that some employees felt the issues and work of the Inclusion Council were being diluted.

95. Terra Dusold (Caucasian), who is an openly transgender woman, had witnessed in her area an older woman being physically moved away from the rest of her team. Ms. Dusold felt it could have been age related.

96. Ms. Dusold said she and an African American member of her team had been segregated from the rest of the team, all of whom were Caucasian.

97. On January 21, 2019, Plaintiff Lintz had her year-end performance review. Defendant Landin told Plaintiff Lintz her position was being eliminated, but another role was being created for her in Human Resources.

98. In the new position, Plaintiff Lintz was supposed to continue to facilitate inclusion-related courses and be involved in working with colleges, universities, and other business about leadership and inclusion-related programs. She would be reporting to Heather Shoepke, Director of Organizational Learning and Development, who, in turn, reports to Defendant Berinobis.

99. Plaintiff Lintz's new position actually consists of employee targeted learning and development, new employee orientation, and inclusion training.

100. At the end of the review, Defendant Landin said Plaintiff Lintz's year-end rating was "improvement needed." The next day, Plaintiff Lintz met with Defendant Landin and she told him again that the rating did not accurately reflect her performance or results.

101. On January 22, 2019, Plaintiff Lintz met again with Defendant Landin and they went over the language that Plaintiff felt was the most egregious. Defendant Landin said he had visited with HR. He said Plaintiff Lintz would be free to apply for other positions within the company. Plaintiff Lintz decided not to go forward with applying for the leadership position (Network Administration Team Leader) as planned, because the rating and description of her performance would be seen by the hiring leader and they were inaccurate.

102. Plaintiff Lintz subsequently acknowledged her review, but indicated that she did not agree with it and gave specific examples of her performance and feedback which directly controverted the rating.

103. On January 28, 2019, Plaintiff Lintz asked Defendant Berinobis about her status as a member of the Inclusion Council. The rating Plaintiff Lintz was given made her ineligible to be a member.

104. Defendant Berinobis suggested Plaintiff Lintz should take a leave of absence from the Inclusion Council, but still facilitate inclusion-related courses. She was precluded from attending any meetings or being an active member for at least a year.

105. On February 4, 2019, Plaintiff Lintz met with Defendant Berinobis. Defendant Forsyth and she agreed the language of the policy was anyone with a performance rating of “Needs Improvement” could not be an active member of the Inclusion Council.

106. Plaintiff Lintz said the rating was inaccurate and unacceptable and her situation was unique. Plaintiff Lintz asserted if she were still in her old position, she would have the opportunity to increase her rating. In her new position she was unable to do that.

107. On February 21, 2019, Plaintiff Lintz met with Ms. Shoepke. Ms. Shoepke said Plaintiff’s new position was Grade 19 and was the only existing position under Ms. Shoepke. Plaintiff Lintz informed Ms. Shoepke that she was told this position was being created for her and Defendant Landin had not indicated that it would be a demotion.

108. Plaintiff Lintz had not been told that the new position would be a Grade 19. Ms. Shoepke said that Plaintiff Lintz’s salary would not be decreased and Plaintiff would even benefit by receiving part of her annual salary as a lump sum, up front. Ms. Shoepke further said

it was just a “pride thing,” But Plaintiff disagreed. Ms. Shoepke said she would talk to Defendant Mehle, HR Director of Operations.

109. On February 21, 2019, following the meeting with Ms. Shoepke, Plaintiff Lintz met with Defendant Mehle. Defendant Mehle informed Plaintiff Lintz the position was a Grade 19, but that it could change in the future depending on Plaintiff’s job skills and ability and the job re-evaluation being conducted by Ms. Shoepke for every position on her team.

110. Defendant Mehle said that they make market salary adjustments, but Plaintiff would not benefit from those since her current salary was already significantly higher than the maximum salary for a Grade 19.

111. Throughout her employment, Plaintiff Lintz was treated differently than her Caucasian coworkers. Including but not limited to, one or more of the following ways; she was passed over for promotions, promised but denied training and mentorship, downgraded on her performance evaluations to justify the failure to promote her and ultimately demoted. This illegal treatment was based on her race and is continuing.

FACTUAL BACKGROUNDS – PLAINTIFF TYLONDA MASON

112. Plaintiff Mason began working for Defendant Wellmark on April 20, 1992 and most recently held the position of Senior Account Service Representative.

113. In 2013 and 2014, Plaintiff Mason was working in the National Accounts Sales Team as a Senior Account Service Representative. During this time period, Plaintiff Mason began pursuing a promotion to the next highest position, Executive Account Service Representative.

114. Kathleen Stoll and Megan Ruble, Plaintiff's leaders, helped Plaintiff Mason work towards a promotion. However, Plaintiff Mason switched teams in 2016 to 101+ Group Sales, and Plaintiff's new leaders were not interested in helping her pursue a promotion.

115. During 2017 and 2018, Plaintiff Mason had great reviews so she asked her leader, Defendant Ryan Brunner, how she could get promoted to the next highest position, Executive Account Service Representative.

116. Defendant Brunner laughed and said that if he promoted Plaintiff, then he would have to promote everyone.

117. Plaintiff Mason asked Defendant Brenner how Vicky Vanderhart, an Executive Account Service Representative, got promoted. Defendant Brenner stated Vicky had been promoted by a previous leader who believed in promoting everyone.

118. Dorian Rossi, a former coworker of Plaintiff Mason, racially harassed Plaintiff Mason and other African American employees for many years. Plaintiff Mason told her supervisor, who said he would talk to him. As far as Plaintiff Mason knows, either they did not do so, or they were ineffective in stopping his illegal conduct which continued for more than a decade.

119. On February 21, 2018, Plaintiff's team received an email about "Spread the Word to End the Word," a nationally recognized effort to stop the use of the word "retard(ed)." In the spirit of Inclusion, a casual day was granted for February 23, 2018.

120. Plaintiff Mason's coworker, Mr. Rossi, told Plaintiff and others about how he could relate to this email because he does not refer to Plaintiff as "nigger" anymore.

121. Plaintiff Mason told Defendant Brunner that she wanted him to address the situation with Mr. Rossi. Defendant Brunner said he would contact HR, but on information and belief he never did.

122. After Plaintiff Mason spoke to Krissy Stoll, plaintiff's brother's director, about the incident with Mr. Rossi, Ms. Stoll called Sean McTaggart, Vice President of Sales. Mr. McTaggart set up a meeting with Plaintiff Mason.

123. The meeting was with HR Representative, Lydia Ballard. During the meeting, Plaintiff Mason said Defendant Brunner and others brushed her off when she told them things Mr. Rossi would say or do, and how Defendant Brunner would say, "Well, that's just Doriano, what am I supposed to do?"

124. Ms. Ballard met with Mr. Rossi and Defendant Brunner and then met again with Plaintiff Mason.

125. HR informed Plaintiff Mason they had also met with other leaders, employees, and directors who had information about Mr. Rossi.

126. There had been complaints regarding Mr. Rossi's behavior going back for the past 20 years.

127. Mr. Rossi would often make inappropriate remarks and would occasionally put unwanted church pamphlets on other employees' desk when he knew they were going through tough, personal situations. For example, one employee received a pamphlet about not obeying one's husband after Mr. Rossi overheard her arguing with her spouse on the phone.

128. On March 31, 2018, Plaintiff attended a meeting with Dave Daniels (Director of Large Group Sales), Laura Jackson (Executive Vice President and Chief Health Officer), Sean McTaggart (Senior Vice President of Development & Client Solutions), and Connie Paoli

(Human Resources Business Partner). They said Mr. Rossi's behavior was not how an employee of Wellmark was supposed to act. They stated they would speak to him.

129. Plaintiff Mason felt uncomfortable and guilty, though she had done nothing wrong. This was an extremely stressful situation for Plaintiff Mason and she started crying. Their response was to ask why she was crying, as if the situation did not warrant her emotions. They called Mr. Rossi into a meeting. He returned about an hour later, slammed his chair into his desk, and grabbed his things and left for the day.

130. On Monday, Mr. Rossi returned. Plaintiff Mason was told he was not to speak to her. His desk was directly across from hers, and she could not ignore him. This situation continued for 3 months.

131. On July 10, 2018, Plaintiff Mason got to work at 7:30 AM. Mr. Rossi followed Plaintiff Mason to the break room and asked her about an older black man who passed away and whether she knew him.

132. Plaintiff Mason told Mr. Rossi that she did not.

133. Mr. Rossi then said "Yes you do." To get away from him, Plaintiff Mason said, "Ok, whatever," and walked back to her desk.

134. Mr. Rossi followed Plaintiff Mason and told her the older black man also thought he was a racist, and Defendant proved him wrong. Plaintiff Mason requested Defendant Brunner do something about Mr. Rossi. Defendant Brunner contacted HR.

135. On July 12, 2018, HR informed Plaintiff Mason that Mr. Rossi would no longer be working for Defendant Wellmark.

136. At the end of February, 2019, Plaintiff Mason again asked Defendant Brunner what she needed to do to get promoted and he repeated his earlier statement, “If I promote you Ty, then I have to promote everyone.”

137. There are only 3 African Americans in Defendant Wellmark’s sales department: Plaintiff Mason, her brother, Michael Mason, and Annette Brewer, who is in telesales. On information and belief, there are almost 200 people in the sales department

138. After Plaintiff Mason filed her Iowa Civil Rights Commission Complaint, Plaintiff met with an HR representative and Brian Smith, an attorney for Wellmark. Mr. Smith told Plaintiff Mason that he wished she would have come to him first before filing the complaint. They pressured Plaintiff Mason to accept a different position under new leadership.

139. Throughout her employment, Plaintiff Mason was treated differently than her Caucasian coworkers. She was passed over for promotions, promised but denied training and mentorship, downgraded on her performance evaluations to justify the failure to promote her and ultimately demoted. This illegal treatment was based on her race and is continuing.

FACTUAL BACKGROUND – PLAINTIFF DAVID TINDRELL

140. Plaintiff Tindrell began working for Defendant Wellmark in May 1998 and most recently held the position of Data Center Transition Manager.

141. Defendant Kogan had become Plaintiff Tindrell’s leader in the middle of 2017.

142. On June 26, 2018, Defendant Kogan insinuated Plaintiff Tindrell’s participation in a cloud meeting was not acceptable. Mr. Kogan accused Plaintiff Tindrell of using his phone and not paying attention. Plaintiff Tindrell was using his phone to document the meeting objectives.

143. In September 2018, Defendant Kogan scheduled a meeting from which Plaintiff Tindrell was excluded. Among the meeting attendees were Jon Schlatter (Caucasian) and Ike Brown (African American). During the meeting, Defendant Kogan admitted to treating Plaintiff Tindrell differently.

144. Also, in September 2018, Ike Brown informed Defendant Ryan (Caucasian), HR Consultant, about the different treatment Plaintiff Tindrell was receiving from Defendant Kogan. No action was taken.

145. On October 3, 2018, Plaintiff Tindrell had his midyear performance review. In attendance were Defendant Kogan, Defendant Ryan, and Defendant Matuszak. During this meeting, Defendant Kogan informed Plaintiff Tindrell that he was not meeting Defendant Kogan's expectations as a leader. He produced a list of objectives that were not even in Plaintiff's work day application (an application used by Wellmark to set performance goals).

146. Defendant Matuszak informed Plaintiff Tindrell that he did not think Plaintiff had the skills to effectively lead the team through the transition from legacy to cloud technology. At no point prior to the mid-year performance review was Plaintiff Tindrell ever told the work his team was doing was unsatisfactory.

147. At the conclusion of the meeting, Defendant Ryan asked Defendant Matuszak and Defendant Kogan where Plaintiff Tindrell stood with his performance. Defendant Matuszak said if Plaintiff Tindrell could deliver optimization and capacity metrics about systems, then Plaintiff would be considered as meeting expectations. Plaintiff Tindrell subsequently was able to deliver these.

148. In December 2018, one of Plaintiff's team members, Bill Fox (Caucasian), went to Defendant Matuszak about similar problems he was having working for Defendant Kogan. As

a result, Mr. Fox was moved to a different team within the department. Mr. Fox also maintained his pay grade after the transfer.

149. Prior to the year-end review, Plaintiff Tindrell scheduled a meeting with Defendant Kogan one-on-one. Defendant Kogan produced a list similar to the one in the October 3, 2018 meeting. Again, at no point prior to the year-end review was anything on the list was brought to Plaintiff's attention. Defendant Kogan said Plaintiff Tindrell's standout weekly check-ins were inconsistent, along with his teams.

150. Plaintiff Tindrell's check-ins were at 83%, but in his goals, there was no indication of what an appropriate percentage would be. Plaintiff Tindrell's team was the only team with this criticism by Defendant Kogan. No team had a goal of a specific percentage for check-ins. Additionally, the scores and participation of all other teams within Infrastructure were lower than his team's performance.

151. Defendant Kogan said Plaintiff Tindrell did not finish the work for Network Time Protocol as he indicated. Defendant Kogan also claimed Plaintiff's performance to be lacking in the area of updating the training spreadsheet. Plaintiff disagreed with Defendant Kogan's assertions.

152. Between March 2018 and December 2018, Plaintiff Tindrell and his team made several successful contributions to cloud technology and its build out. Even though the size of Plaintiff Tindrell's team was reduced by 30%, their workload increased by 35% because they took on extra work from another team.

153. With no training in the area, Plaintiff Tindrell and his team were tasked with deploying certificate systems. Plaintiff's team successfully deployed the certificate authority in November 2018.

154. Plaintiff Tindrell attended biweekly cloud meetings in which Plaintiff listened and provided input on various topics. Plaintiff Tindrell did presentations on architecture layout and future operations on cloud optimizations processes, security patch deployments, and network time protocols.

155. Plaintiff Tindrell provided status updates about the implementation of certificate services.

156. Throughout the year, Plaintiff Tindrell was overloaded with work, some of which was in addition to Plaintiff's team's normal activities and typically did not consist of goal work.

157. Plaintiff Tindrell's team processed and closed 7,000 service tickets. Plaintiff Tindrell tried to inform Defendant Kogan of the difficulty in keeping up with the workload and balancing system operation but received no relief.

158. On January 23, 2019, Plaintiff Tindrell had his year-end performance review from 2018. Defendants Matuszak, Kogan, and Ryan were again in attendance. Defendant Kogan again had a list of things he believed reflected Plaintiff Tindrell's performance, none of which he had ever brought up before.

159. On February 5, 2019, Plaintiff Tindrell met with Defendant Matuszak and was offered another job. The job description was being written up by HR personnel, Defendant Matuszak, and Defendant Kogan. Plaintiff Tindrell previously told Defendant Matuszak about Defendant Kogan's unequal treatment of Plaintiff and the change in position was supposed to rectify this. Plaintiff Tindrell's new position would be two pay grades lower, and Plaintiff would no longer be in a leadership role.

160. On March 13, 2019, Plaintiff Tindrell met with the Executive Vice President, Marci Chickering. Ms. Chickering informed Plaintiff that someone had reported Plaintiff had

something to do with a lawsuit. Ms. Chickering then allowed Plaintiff Tindrell to express the concerns he had with the technology department.

161. Plaintiff Tindrell frequently asked his leaders, including Defendant Kogan, what it would take to move up into a Director Role. Plaintiff Tindrell was always informed that he would be mentored. He never was.

162. Under Plaintiff Tindrell's leadership, numerous people were promoted. Examples include: Chanler Childs (Caucasian), Rafael Candido – promoted to Senior Engineer and moved to Cloud Engineering (Person of Color), and Vince Fausch – promoted to Senior Engineer and now makes more money than Plaintiff does due to position change (Caucasian).

163. Plaintiff's team, Cloud Operations, has the highest tenure of any team within the IT department. Several members had been promoted to Senior Engineer. One such person, Joe Peters (Caucasian), had left Wellmark eight years ago and returned in a leadership position. Mr. Peter informed Plaintiff Tindrell that Plaintiff's mentorship helped prepare him for success.

164. Throughout his employment, Plaintiff Tindrell was treated differently than his Caucasian coworkers. He was passed over for promotions, promised but denied training and mentorship, downgraded on his performance evaluations to justify the failure to promote him and ultimately demoted. This illegal treatment was based on his race and is continuing.

COUNT I
VIOLATION OF IOWA CODE 216.6:
RACE AND COLOR DISCRIMINATION – ALL NAMED PLAINTIFFS AND
OTHERS SIMILARLY SITUATED V. ALL DEFENDANTS

165. Defendants discriminated against Plaintiffs and the class they represent with respect to their employment based on their race and color in violation of Iowa Code Chapter 216.6.

166. Defendants engaged in a continuing pattern and practice of race and color discrimination and harassment in violation of the Iowa Civil Rights Act, Iowa Code Chapter 216.

167. Plaintiffs' race and color were a motivating factor in the discrimination.

168. The Defendants' violation of Iowa Code Chapter 216 is the cause of the injuries suffered by the Plaintiffs.

169. As a result of Defendants' acts, Plaintiffs and the class they represent have and will continue to suffer damages including but not limited to, mental and emotional harm and anguish, humiliation, embarrassment, and loss of enjoyment of life. Plaintiffs have and will continue to suffer loss of past and future wages and benefits, other emoluments of employment, and past and future medical expenses.

170. As a result of Defendants' acts aforesaid, Plaintiffs and members of the class are entitled to the relief set forth in the request for relief below.

REQUEST FOR RELIEF

WHEREFORE Plaintiffs, individually and on behalf of the members of the class, request judgment and relief against Defendants as follows:

a) That an Order of this Court be entered certifying this action to proceed as a class Action with named Plaintiffs as proper class representatives;

b) That Defendants' conduct be declared to be in violation of Plaintiffs' rights as outlined by Iowa Code Chapter 216.6;

c) That Defendants and their officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith be enjoined from any further conduct violating Plaintiffs' rights or the rights of others similarly situated as secured by Chapter 216 of the Iowa

Code, and that the Court order such other injunctive relief as necessary to prevent Defendants from continuing their discriminatory practices and to protect others similarly situated;

d) That Plaintiffs and members of the class be awarded compensatory damages and any other form of relief to which they are entitled, including equitable, declaratory, monetary or other relief due to the individual class members or to the Class in a lump sum or installments pursuant to Iowa Rules of Civil Procedure 1.274, but not to exceed \$5,000,000.00;

e) That Plaintiffs and members of the class be promoted to the positions they would have held absent discrimination.

f) That Plaintiffs and members of the class be made whole by providing them appropriate lost earnings and benefits with pre-judgment interest, past and future emotional distress damages, and other affirmative relief;

g) That Plaintiffs and members of the class be awarded reasonable attorneys' fees and costs incurred in prosecuting this action; and

h) That Plaintiffs and members of the class be awarded such additional and further relief as is just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury in this matter.

/s/ Roxanne Conlin
ROXANNE CONLIN AT0001642
DEVIN C. KELLY AT0011691
ROXANNE CONLIN & ASSOCIATES, P.C.
3721 SW 61st Street, Suite C
Des Moines, IA 50321-2418
Phone: (515) 283-1111; Fax: (515) 282-0477
Email: Roxanne@roxanneconlinlaw.com,
dkelly@roxanneconlinlaw.com
cc: dpalmer@roxanneconlinlaw.com
ATTORNEYS FOR PLAINTIFFS

Original e-filed.