

**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY**

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**CAROL BELL, on behalf of herself and  
those similarly situated**

**Plaintiff,**

**v.**

**LOCKHEED MARTIN  
CORPORATION, and its wholly owned  
or controlled subsidiaries**

**6801 Rockledge Drive  
Bethesda, MD 20818**

**Defendant.**

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: JURY TRIAL DEMANDED  
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: (Assigned to Honorable  
: Judge N. Hillman)**

**FIRST AMENDED COMPLAINT**

**INTRODUCTION**

1. Plaintiff, Carol Bell, by and through her undersigned attorneys, brings this First Amended Complaint against her employer Lockheed Martin Corporation and its wholly owned or controlled subsidiaries (hereinafter referred to as "Lockheed Martin" or "Defendant") or "the company" on behalf of herself and all other similarly situated present and former female employees of Defendant who held either leadership ("L") or exempt ("E") positions designated 3, 4, 5 or 6. Plaintiff brings this "glass ceiling" and pay disparity Class Action to redress Defendant's unlawful and continuing company-wide policies and practices of gender discrimination. Plaintiff and the class she seeks to

represent charge that Lockheed Martin discriminates against its salaried female employees by advancing male employees more quickly than equally or more qualified female employees through middle management and into upper management level positions, and discriminates in compensation to these female employees, including with respect to pay grade, annual and promotional increases, merit pay increases and bonuses. Director level positions are the entry level positions within Lockheed Martin for which stock options and other enhanced compensation is available. Upon information and belief, less than twenty percent of the director level and above positions are held by women and women at all salaried grades are paid less than men with substantially similar performance and responsibilities. These disparities cannot be explained by any justified business policies. Rather, they are the result of policies and practices that purposefully discriminate against women. These practices include failure to post open positions at the director level as well as at lower levels for positions that are designated stepping stones to the director level positions.

2. This action seeks to end Lockheed Martin's discriminatory practices and to make Plaintiff and the class members whole for their losses, and for punitive damages.

## **PARTIES**

3. Plaintiff Carol Bell is an individual, who at all relevant times, including the present, resides in Mount Laurel, New Jersey. Plaintiff is currently employed by Lockheed Martin.

4. Plaintiff is a female.

5. Defendant, Lockheed Martin Corporation is a global security and

advanced technology company. It is a Maryland corporation, headquartered in Bethesda, Maryland. According to its website, [www.lockheedmartin.com](http://www.lockheedmartin.com), Defendant employs about 140,000 people worldwide and operates in 500 cities and 46 states throughout the United States. Lockheed Martin is principally engaged in the research, design, development, manufacture and integration of advanced technology systems, products and services. The majority of its business is with the U.S. Department of Defense and the U.S. federal government agencies. It is the largest provider of information technology services, systems integration, and training to the U.S. Government. Lockheed Martin reported 2008 revenues of \$42.7 billion.

6. Defendant is engaged in an industry affecting interstate commerce and regularly conducts business in the State of New Jersey.

7. At all times material to this action, Defendant was an employer within the meaning of the state and federal laws which form the basis of this action, and employed more than five hundred (500) employees at any one time.

8. At all times material to this action, Defendant acted by and through authorized agents, servants, contractors and/or employees acting within the course and scope of their employment with Defendant or authorized by Defendant and in furtherance of Defendant's business.

### **JURISDICTION AND VENUE**

9. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

10. The causes of action set forth in this Complaint arise under Title VII of the Civil Rights Act of 1964 and 1991 as amended, 42 U.S.C. §2000e *et seq.* ("Title VII")

and The New Jersey Law Against Discrimination, as amended, N.J.S.A. 10:5-1, *et seq.* (“NJLAD”).

11. This Court has federal question jurisdiction over the Title VII claims (Counts I and II) pursuant to 42 U.S.C. §2000e-5 and 28 U.S.C. §1331 and 1343(a) and supplemental jurisdiction over Plaintiff’s New Jersey claims (Count III and IV) pursuant to 28 U.S.C. §1367 because the amount in controversy exceeds five million dollars.

12. Venue is proper in this district under 28 U.S.C. 1391(b)(c) and 42 U.S.C. §2000(e)-5(f) because events giving rise to the claims occurred within this district, Plaintiff was employed within this district, Defendant transacts business and is found in this district.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND TIMELY SUIT**

13. All conditions precedent to the institution of this suit have been fulfilled with regard to Plaintiff’s federal claims. On January 15, 2008, April 10, 2008 and April 25, 2008, Plaintiff timely filed charges of discrimination and retaliation with the Equal Employment Opportunity Commission (“EEOC”). The January 15, 2008 Charge was amended on April 15, 2008. True and correct copies of these four (4) Charges are attached hereto collectively as Exhibit 1. On December 22, 2008, Notices of Right to Sue were issued in connection with each of those Charges which are attached hereto collectively as Exhibit 2. There are additional charges of discrimination and retaliation on file with the EEOC.

#### **CLASS ALLEGATIONS**

14. Plaintiff brings Count I (Title VII discrimination) pursuant to Federal Rules of Civil Procedure 23, on behalf of the following Class, defined as: All persons who are

female and who were, are, or will be employed by Lockheed Martin Corporation in “E” or “L” designated positions at level 3, 4, 5 or 6 in the United States of America from March 1, 2006, through the date of the final disposition of this Action (hereinafter “the Class”).

15. Plaintiff brings Count III (NJLAD) pursuant to Federal Rules of Civil Procedures 23 on behalf of the following Subclass of the Class, defined as follows: All persons who are female and who were, are, or will be employed by Lockheed Martin Corporation in “E” or “L” designated positions at level 3, 4, 5 and 6 in the State of New Jersey from December 23, 2006, through the date of the final disposition of this Action (hereinafter “the Subclass”).

16. The Class and Subclass are so numerous that joinder of all members is impractical. Plaintiff estimates that the Class consists of well in excess of one thousand present and former female employees of Lockheed Martin. Plaintiff estimates that the Subclass consists of well in excess of one hundred present and former employees of Lockheed Martin. Given the large number of Class member and their geographical dispersion, it is impracticable for all Class members and for all Subclass members to join in the individual litigation.

17. There are questions of law and of fact common to the Class and Subclass, including but not limited to:

a) whether Defendant’s common operating policies, procedures and practices, including with regard to promotion and pay, have a disparate impact on women and whether this disparate impact is justified by any business necessity;

b) whether Defendant’s common operating policies, procedures and practices which result in the disparate treatment of women violate Title VII of the 1964

Civil Rights Act and / or The New Jersey Law Against Discrimination;

c) whether Defendant has engaged in a pattern and practice of intentional disparate treatment of its female employees in violation of Title VII of the 1964 Civil Rights Act and/or the New Jersey Law Against Discrimination; and

d) whether Plaintiff and the Class and Subclass is entitled to the relief prayed for in this Complaint.

18. Plaintiff is a member of the Class and Subclass and the claims of Plaintiff are typical of the claims of the Class and Subclass.

19. Plaintiff will fairly and adequately protect the interest of the members of the Class and Subclass. Plaintiff has no interests that are antagonistic to other members of the Class or Subclass. Additionally, Plaintiff has retained counsel who are competent and experienced in the prosecution of employment and complex class action litigation. Plaintiff will vigorously prosecute this case on behalf of the Class and Subclass.

20. Class certification is appropriate under Rules 23(b)(2) because Defendant has acted or refused to act in a manner generally applicable to the Class and Subclass, thereby making appropriate declaratory relief and/or final injunctive relief and other equitable relief on a Class and Subclass- wide basis to end Lockheed Martin's discriminatory policies , procedures and practices.

21. Class certification also would be appropriate under Rule 23(b)(3). The common issues of law and fact presented in this Amended Complaint predominate over any individual issues. A class action is superior to the other available methods for the fair and efficient adjudication of this controversy, because joinder of all members is

impracticable. Lockheed Martin's personnel policies, procedures and practices are uniform and discriminatory. The expense and burden of individual litigation makes it impractical for the members of the Class and Subclass to pursue individual litigation to vindicate their rights.

22. Plaintiffs are not aware of any problems that would militate against the maintenance of this action as a class action.

### **FACTUAL ALLEGATIONS.**

23. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

24. Lockheed Martin employs more than 140,000 people. It is the largest information technology services supplier to the United States government. Lockheed Martin is organizationally divided into four "business areas" and a corporate function: Aeronautics, Electronic Systems, Information Systems and Global Services ("IS & GS"), Space Systems, and Corporate (also referred to as Enterprise Operations). Each business area includes multiple business units employing thousands of employees in multiple locations throughout the United States. Defendant's employees are eligible for and routinely apply for transfers and promotions across business areas, business units and geographic locations. The human resources functions for all of Lockheed Martin are controlled by the Corporate Human Resources department. The policies, practices and procedures referenced herein are common to all business areas, units and locations of Lockheed Martin.

25. Two of Lockheed Martin's salaries position job code ladders are "L" and "E". The "L" level designates a leadership position. L3 is the entry level leadership

position. The "E" level designates an exempt position. The Class consists of women designated E 3, 4, 5 or 6 and L 3, 4, 5 or 6. These are all salaried positions.

26. Any position specified as L7 or above or E7 or above (i.e., L7, L8, L9, E7, E8 or E9) is considered a Director-level position or above. Compensation for Director-level positions and above includes higher base salary, bonuses, stock options and/or significantly enhanced employee benefits that are not available in lower level positions designated 3 through 6.

27. Upon information and belief, there are well in excess of several thousand female employees of Lockheed Martin in L or E level positions, L3 through L6 and E3 through E6.

28. Upon information and belief, based on available information concerning the gender identity of attendees of the Lockheed Management Incentive Compensation Program (generally L7 and above), 17.5% or a total of 317 of Defendant's employees designated L7 or E7 or above are female. Further, upon information and belief, Plaintiff estimates that fewer than half of these 317 women in positions 7 or above are outside of the Human Resources, Ethics and Communication departments, the three traditionally female departments.

29. Lockheed Martin employs uniform employment and personnel policies throughout the United States. Lockheed Martin's Corporate (Enterprise Operations) business area includes the human resource functions common to the entire corporation. That Corporate function maintains the company wide personnel policies and procedures, including the corporate-wide salary grade ranges by job code, various electronic data bases and the human resources intranet content. Regardless of

business area, the policies relating to pay, assignment and promotion are uniform. Lockheed Martin regularly audits for compliance with their uniform company policies and procedures.

30. Defendant maintains a corporate intranet which makes available to all human resources employees of Defendant (as well as certain other employees), a uniform set of human resources procedures. In addition, since September 24, 2007, Defendant has had an on-line tool called HR Metrics (visible in the HR Professionals section of the LM People intranet) which enables human resources employees throughout the company to produce a variety of reports “either business specific or enterprise wide to analyze attrition statistics, female and minority representation, compensation data and more.”

31. The personnel patterns and practices of Defendant that result in the gender based discrimination alleged herein, including pay discrimination and discrimination in promotion are systemic and reflected in and caused by Corporate policies and practices which are uniform throughout the various business areas and units of Defendant’s United States operations.

32. FOCUS is the Lockheed Martin People Compensation Planning System maintained by Defendant’s Corporate (“Enterprise Operations”) business area. Defendant maintains uniform human resources procedures relating to compensation as evidenced by the FOCUS program which charges the Corporate compensation group with maintaining uniform salary grade ranges for each job code.

33. All information concerning compensation is stored in Defendant’s “Lockheed Martin People,” designated “LMP”, database which includes electronically

loaded and maintained records for all employees. The FOCUS system is used to generate reports and analysis by salary grade level and to monitor conformity with Lockheed Martin policies. Salary planning data by salary grade level is generated for the entire Lockheed Martin population. Salary grade ranges by job code are decided at the Corporate level; their use is mandatory throughout Defendant; however, there is substantial discretion in setting salary within the salary ranges. The Corporate compensation function monitors compliance.

34. There are more than 4,000 leaders and functional representatives with employee relations and compensation responsibilities. The rules and procedures for internal recruiting and selection are uniform throughout Defendant and are enforced throughout the Corporate human resources and audit functions. As described below, these policies permit, indeed, require excessive subjectivity in their implementation.

35. Lockheed Martin imposes company-wide subjective criteria for determining education and experience requirements for promotion. Published Lockheed Martin Corporation criteria called "Exempt Bench Mark Level Criteria" describe minimum education and experience for positions at all levels. Typically, the descriptions of minimum education and experience required for levels 4 through 7 are identical, effectively eliminating all but subjective criteria with regard to education and experience. For instance, for Program Managers and Subcontract Program managers (L304/L749), a large job grouping within the company, "Typical Minimum Education and Experience" is identically described at levels 4 through 7: "Appropriate degree from an accredited college or equivalent experience/ combined education, with professional experience and specialized training commensurate with assignment." Thus, Lockheed

Martin provides no meaningful distinctions among the levels 4 through 7, rather it maintains a company-wide policy of excessive subjectivity in determining minimum requirements for selection for levels 4 through 7. This excessive subjectivity results in discrimination based on gender in advancement, pay grade and compensation.

### **PROMOTION DISPARITIES BASED ON GENDER**

36. It is the expressed, company-wide policy of Lockheed Martin that open positions at the L7 and E7 level and above are not posted. This policy of not posting open positions that are above level 6 is documented in Defendant's corporate wide policy, CPS-521 §§ 5.15 through 6.2.

37. Most open positions at the lower levels, L3, L4, L5, L6, E3, E4, E5 and E6, are posted for open application on Defendant's internal intranet, "Career Network, LM Careers," a company wide on-line system used, *inter alia*, for posting and processing job applications. There is an icon "Apply for a Job" for positions below level 7. With respect to these L-6 and below positions (in contrast to its policy for L7 positions and above), Lockheed Corporate recognizes the extent to which posting open positions provides employees with a measure of uniform and transparent treatment: "The minimum posting period for any job is seven calendar days. During this time, any employee who bids for the position must be considered for it. The hiring element must either interview the employee for the position, or provide the employee with the basis for the decision not to interview." (CPS-521 § 6.3, "Recruitment and Hiring Practices-corporate headquarters/corporate policy statement CPS-521/revision No 7/effective December 18, 2006/copyright 2006 Lockheed Martin Corporation/current policies and procedures" as posted on Defendant's Intranet).

38. Throughout Defendant, the classification “Executive Position “is uniformly set at level 7 or above with a base salary of \$100,000 or more. Recruitment is controlled through the Corporate-wide “Executive Recruiting” office in the Staffing Services department Corporate Human Resources, which assigns one of its staff members to perform the search (CPS-521 Section 5.15). As described hereinafter, even below the level 7 designation, there is selectivity in posting positions which is sanctioned by the Corporate company-wide policy that excludes “growth promotions” from the requirement to post. (CPS-521 section 5.15- 6.2); Defendant’s policy CPS - 521 excludes from posting requirements, *inter alia*, Executive Positions (level 7 or above and base salary of \$100,000) and “growth promotion” positions as well as Leadership Development Program position rotations and other corporate sponsored rotational programs or initial placements following Leadership Development Programs (“LDPs”). These policies are enforced by the Corporate business area on a company-wide basis throughout the US. “Any deviation from this [the foregoing] policy requires the prior approval of the corporate Senior Vice President Human Resources or designee.”(CPS-521 section 8.5).

39. As a result of Lockheed Martin’s uniform policies limiting posting, and in contrast to level 3-6 positions, there is no way for an employee to learn of a level 7 opening or a level 6 growth and advancement track position, other than through word of mouth. Further, there is no process by which employees can assert their interest in applying for vacancies at the L-7 level and above or promotion track level 6 positions exempted from the posting requirements. Historically and continuing through the present, selection for these positions is made overwhelmingly by male directors and

officers of Defendant and the successful candidates have been disproportionately male. There is no business justification for failure to use the established Lockheed Martin recruitment and hiring procedures (CPS-521 section 6.3) for filling promotion track level 6 positions and level 7 positions.

40. Throughout Defendant, the four business areas each conduct Talent Assessments and Development (“TAD”). The applicable managers have a once a year session where they put the names of every level 5 and above employee on a grid with sections based on the Performance Assessments Ratings from the annual performance reviews as well as a subjective assessment of “potential.” Throughout Defendant, these sessions are overwhelmingly conducted by men. Open positions designated as “Leadership Positions,” for which posting is also not required, even at the level 6 are filled through TAD. There is no business justification for failing to use established Lockheed Martin recruitment and promotion procedures (CPS-521 section 6.3) for Leadership Positions at level 6.

41. By way of further example, within the “Program Management” job classification, a very large classification of positions within the company, historical attendance at Senior Program Management Leadership Development Programs (“LPD”) for L designated positions from inception through December 2007 has been disproportionately male. Attendance is restricted to those employees nominated by a Vice President. Vice Presidents are overwhelmingly male. Over the entire period of its operation, 116 women have attended Program Management LDPs (17.1%) and 561 men (82.9%). Upon information and belief, women have been consistently and substantially underrepresented in senior LDPs Program Management and for other job

groupings. There is no business justification for the substantial underrepresentation of female employees at senior Leadership Development Programs of Lockheed Martin.

42. There is also a company-wide policy that prior to promotion to a level 7 position, an employee must have been identified as a “Hi-Pot” (short for high potential) on a Performance by Potential Chart (called the “9-Blocker Chart”) or be directly recommended by their supervisor. There is a process for determining “Hi-Pot” at meetings, the details of which are not shared with employees. Employees are not made aware who the selectors are or what criteria they use when evaluating candidates. Upon information and belief, the applicant must have a current annual performance appraisal rating of 1 or 2 (out of a possible 1 through 5). Subjective and intentionally discriminatory performance appraisals (overwhelmingly performed by men) for 5 and 6 level positions combined with a “bell curve” rating system (which requires a designated distribution of performance ratings among a small group of employees rated by a common manager) result in women being disproportionately rated “3” (average) or below, effectively eliminating the possibility of being designated as a “Hi-Pot”. These performance ratings also directly impact the annual percentage increase that a Lockheed Martin employee receives

43. There is also a company-wide system of creating “stretch assignments” (also called growth positions) and designating them as a pre-requisite to promotion eligibility, even at the 4-6 level. A “stretch assignment” is an opportunity to learn about another job in the company and it is usually a high visibility assignment. “Stretch assignments” are generally considered necessary for advancement and are another exception to the posting requirement of CPS -521 section 6.3. There are no objective

criteria or process for creation or selection of stretch assignments. Further, a “sponsor” (the vast majority of whom are men) is very important to ultimately receiving a stretch assignment. Stretch assignments are created for and filled by men rather than women in disproportionate numbers. There is no business justification for the disproportionate selection of men for stretch assignments.

44. Lockheed Martin’s aforesaid policies restricting posting of open positions as well as its policies and practices for selecting employees for Leadership Positions, stretch positions, growth positions, Leadership Development Programs, rotational programs and ‘Hi-Pot”, each have a disparate impact on its female employees. These policies result in women advancing more slowly than men and have no business justification.

45. Lockheed Martin’s aforesaid policies restricting posting of open positions as well as its policies and practices for selecting employees for Leadership Positions, stretch positions, growth positions, Leadership Development Programs, rotational programs and ‘Hi-Pot”, each constitute disparate treatment of its female employees.

46. Plaintiff and the Class are or were female employees of Lockheed Martin who were denied promotional opportunities or advance slower than men as a result of their female gender.

### **PAY DISPARATIES**

47. The aforesaid policies also have resulted and continue to result in women being paid less than similarly situated men.

48. Upon information and belief based on available information, at the 3, 4, 5 and 6 levels females are: a) disproportionately paid less than men who perform

substantially similar work, with similar or lesser skills and experience, and b) disproportionately rated lower than men as a result of the “bell curve” forced rating systems of Defendant and their lower selection rates for stretch positions, leadership training and other advancement track opportunities, resulting in lower compensation.

49 Upon information and belief, in the limited instances where women are awarded entry level senior management positions, they are often graded lower and/ or paid less than customary for the positions and responsibilities. The allegations concerning Plaintiff Carol Bell as hereinafter set forth, illustrate this. By way of further example, Linda Raymond, a retired former Senior Manager was the only woman 6G Leader (for the second largest business unit of Maritime Systems Sensors (“MS2”) located in Syracuse, New York). When she was replaced by a man, Stephen Wylong, he was made a director, L7, and made eligible for management incentive compensation. Subsequently, Mr. Wylong was replaced by Mr. Bellino who retained Mr. Wylong’s L7 salary even though Mr. Bellino did not have a college degree. In another instance, Nancy McLoda, site leader at the Manassas, Virginia, location of MS2, was only made a Director even after many years of serving in a director-level function; when she was finally made an L7 Director, she was not simultaneously made eligible for management incentive compensation.

50. By way of further illustration, the supplier diversity program is a company-wide program impacting Global Supply Chain Management of all business areas of Lockheed Martin. At present, there are four managers of supplier diversity reporting to Global Supply Chain management, one for each of the Lockheed Martin business area: Aeronautics, IS&GS, Space Systems and Electronic Systems. For years, there has

been only one female among them, Elaine Mayfield, who has the highest number of direct reports (in this case small business liaison officers) reporting to her. In addition Ms. Mayfield is the only one among the four who has compliance responsibility. However, Ms. Mayfield was the only one among the four who is a manager rather than a senior manager. Recently, one of the male managers was replaced by a woman who was given a lesser title and salary grade despite taking on all of the responsibilities of the replaced male.

51. This pattern and practice of unequal pay, promotion, training and opportunity is not the result of random, non-discriminatory factors. Rather, Lockheed Martin has acted and continues to act in a pattern and practice of intentional sex discrimination in pay, training, advancement and promotion by utilizing policies and practices that have an adverse impact on female employees that is without business necessity.

As set forth above, these practices include:

- Paying female employees less than similarly situated men;
- Assigning female employees lower job classification and/or salaries within the same job classification than similarly situated men;
- Failure to post promotional opportunities and L7 positions;
- Reliance on subjective, inconsistently applied criteria in performance reviews, assignments, training, pay and promotional decisions;
- Reviewing and rating female employees less favorably than men;
- Providing less training and support for female employees, including fewer

“stretch” assignments and other training and advancement opportunities;  
and

- Failure to promote women through middle management and into upper level positions.

52. Sex was a motivating and/or determining factor in Defendant’s discriminatory treatment of Plaintiff and the Class.

### **ALLEGATIONS OF CAROL BELL**

53. Carol Bell is a current female employee of defendant Lockheed Martin. She is employed in Mt. Laurel, New Jersey as a Manager, Subcontract Administration within the MS2 business unit of the Electronic Systems business area of Defendant. She maintains an L6 job grade.

54. At various times from June of 1978 until the present, Plaintiff worked at Defendant holding Leadership rated (“L-rated”) positions, for a total of approximately twenty-one (21) years. From February 2003 until April 2004, she worked as a Level 4 (“L4”) Procurement Engineer. Plaintiff was then transferred to Level Five (“L5”) Program Manager (pay grade E5G). From June 2005 to the present, Plaintiff has been employed as a Level 6 (“L6”) Senior Manager, Subcontract Administration (pay grade E6L), currently reporting to Douglas Goerke, Director of Sourcing. Plaintiff has worked at the Defendant’s facility in Mount Laurel, New Jersey throughout this period. As set forth in subsequent paragraphs, throughout the relevant time period, and typical of an employee career path at Defendant, Plaintiff applied for positions outside her business area, outside her business unit, and outside her then current geographical location. In several instances, the successful but less qualified male applicant came

from outside Plaintiff's business area and unit and from outside his incumbent business area and unit. For instance, in March, 2008, Plaintiff applied for and was denied a position for which Dan Feeney was selected. At the time, Mr. Feeney was Senior Program Manager for Subcontract Management within the Information Systems and Global Services business area and was promoted to Director of Subcontract Management in Corporate Operations Excellence and Program Management Organization within the Corporate Enterprise Operations business area. Mr. Feeney had been promoted through successively move responsible positions in all of Defendant's other business areas: Electronic Systems, Space Systems, IS&GS, and Global Supply Chain.

55. At present, Plaintiff is employed in Mt. Laurel, New Jersey. Since June, 2005, Plaintiff has been a Manager, Subcontract Administration within the MS2 business unit of the Electronic Systems business area of Defendant. On or about June 13, 2005, Plaintiff was transferred from an L5 Program Manager (pay band E5G) to L6 SCA. As an L6 SCA, although a grade level above L5 Program Manager position, the "L" pay band of this new position is lower than the "G" pay band designation Plaintiff had for her previous position.

56. Plaintiff now believes but does not have information to substantiate that she has been paid less than comparable male employees. Plaintiff has been paid less than comparable male employees during the entire time she has held the SCA designation. Defendant pays the Subcontract Program Manager ("SPM") position within the Electronic Systems business unit on a higher pay band than the Subcontract Administrator ("SCA") position, even though the two positions were previously on the

same pay band and are comparable in terms of function and responsibility. Very few women are SPMs; a far greater percentage of the SCAs are women. Consequently the vast majority of female workers in the SCA/SPM pay group have been relegated to a pay band with a lower compensation range.

57. In or about December, 2005, Plaintiff received a performance review from her supervisor, Mr. Goerke. She was designated "Successful Contributor." This is the middle (3) rating of five possible ratings: "Exceptional Contributor" (the highest); "High Contributor;" "Successful Contributor;" "Basic Contributor;" and, "Unsatisfactory" (the lowest). Plaintiff was not happy with this rating because she had met or exceeded the performance goals and objectives that were set for her and there were no criticisms of her performance through the year. The only explanation Mr. Goerke offered Plaintiff was that she needed to "network more." This rating resulted in a lower salary increase than a "High Contributor," or an "Exceptional Contributor" would have received.

58. Plaintiff discussed with Mr. Goerke the fact that as a result of the June 2005 transfer she was now on a lower pay band (L as opposed to G), even though her position had a higher grade level (L6 as opposed to L5). Plaintiff explained that given her job duties and experience level, Plaintiff should be on the G pay band. Plaintiff also discussed this issue with Ms. Monet Cleveland-Nathaniel, Director of HR. Plaintiff was told that they "would look into it."

59. In or about late 2005/early 2006, Plaintiff had a discussion with Mr. Joseph Gonsiewski, Director of Operations and Facilities, grade 7 who reported to Mr. Jim Thomas, President of Operations and Supply Chain Management within the Electronic Systems business area (Mr. Goerke also reports to Mr. Thomas). Mr. Gonsiewski said

he was looking for another assignment since the two year rotation on his then current position was ending soon. Plaintiff met with Ms. Cleveland-Nathaniel and expressed her interest in Mr. Gonsiewski's position L7 that was rated. Plaintiff asked what she needed to do to be included on the slate of candidates for this position. She was advised that she should meet with Mr. Robert Fiorentini, Vice President of Operations for MS2, Ms. Yvonne Hodge, Vice President of Quality for MS2, and Mr. Philip Goslin, Director of Procurement.

60. As instructed, Plaintiff met with Mr. Fiorentini on or about April 10, 2006. He told Plaintiff that pursuant to Defendant's policy, to be considered for any Director positions, Plaintiff had to be considered a "Hi-Pot" and be in a favorable position on the "9-Blocker" Chart. Since Mr. Goerke had rated Plaintiff only "Successful Contributor" instead of one of the two higher ratings ("High Contributor" or "Exceptional Contributor"), Plaintiff was not in a favorable position on the 9-Blocker Chart.

61. Plaintiff also spoke with Mr. Goslin, in or about May, 2006. His advice was to consider a lateral move to another business unit, even though she had no interest in doing that.

62. Plaintiff never met with Ms. Hodge who cancelled the meeting five times.

63. On or about September 28, 2007, Plaintiff learned that Mr. Robert O'Brien (male) was the successful applicant for Mr. Gonsiewski's former position. Mr. O'Brien was previously a Facilities Director. He came from the MS2 unit of the electronic systems business area. The formal announcement of the promotion revealed that Mr. O'Brien's educational background was almost identical to Plaintiff's. This position was never posted, and Plaintiff was never given an opportunity to finally apply for it or be

interviewed. The decision maker was Mr. Jim Thomas.

64. In or about July, 2006, Plaintiff attended a Sourcing Excellence Council meeting with Mr. Goerke and a summer intern in Virginia. Prior to arriving, Plaintiff had arranged to meet for dinner with Mr. Dan Fitzpatrick, a Sourcing Director from the Orlando, Florida facility. Plaintiff was explicitly invited by Mr. Fitzpatrick. However when Plaintiff contacted Mr. Goerke that evening, he was already at dinner with Mr. Fitzpatrick. Mr. Goerke intentionally excluded Plaintiff from this networking opportunity even though one of his criticisms of Plaintiff had been that she needed to “network” more. Plaintiff had dinner that night with the summer intern.

65. In or about November 2006, Plaintiff applied for a position in the IS&S (now called “IS&GS”) business area. The job was a Senior Manager, Subcontract Program Management reporting to Mr. Brad Magro. The position was L6 SPM, G grade with a \$6,000 minimum increase over her current salary. Since the job was an L6, it was posted on the Career Network. Plaintiff applied for the position but was never interviewed, even though the job description for this position was the same as the job Plaintiff was then currently holding. In February 2007, Plaintiff learned that the position was awarded to Mr. Daniel Feeney, who, upon information and belief, was less qualified than she for this position. Mr. Feeney came from the Corporate Operations/ Enterprise business area. Because this was an SPM position, it was paid at the higher “L” band and would have been a step toward an L7 position. The decision maker was Brad Magro.

66. In or about December, 2006, Plaintiff learned through word of mouth that there was a Director-level position open. The position was formerly held by Mr. Dave

Zalewski in the Materiel Acquisition Center Mid-Atlantic within the Region Electronic Systems business area. Pursuant to Defendant policies, this position was not posted even though it was subsequently downgraded to a L6 SPM. Plaintiff contacted Ms. Cleveland-Nathaniel to express her interest. Ms. Cleveland-Nathaniel said she would try to get Plaintiff on the slate of candidates. She later told Plaintiff that the position had already been filled by Michael Lubrano (male) formerly a Senior Manager in MS2 Moorestown within the electronic systems business area. The decision maker was Phil Goslin (male). Plaintiff was never given the opportunity to apply for this position or be interviewed. Upon information and belief, Mr. Lubrano was less qualified for this position than Plaintiff.

67. In or about late December 2006, Plaintiff had another performance review with Mr. Goerke. Again, Mr. Goerke gave her the middle rating (3): "Successful Contributor." While acknowledging that Plaintiff was "fully successful" in meeting performance goals and objectives for the year, he criticized Plaintiff for not using her skills as a "certified black belt" to exercise her "ability to lead" events. Plaintiff had met or exceeded every goal that had been set for her and had met with Mr. Goerke regularly throughout the previous twelve months to review her goals, objectives and progress. In these earlier meetings, he never mentioned the criticism he offered at the December, 2006, review. Again, this rating resulted in a lower pay increase than plaintiff would have received had she been rated "High Contributor" or "Exceptional Contributor."

68. Plaintiff again discussed with Mr. Goerke the fact that her pay band had still not been increased to be on par with the SPM position. Plaintiff also showed him the job description for the IS&S SPM position for which she was passed over. She

stated that since that job and her current job were substantially the same, asserted that they should be paid at equivalent levels. He said he would “speak with HR” about it.

Mr. Goerke never again talked to Plaintiff about it.

69. Plaintiff discussed her performance rating with a coworker, Oliver Cueff (male), who was also reviewed by Mr. Goerke. Mr. Cueff was very happy with his rating. Mr. Goerke gave Mr. Cueff a better rating than Plaintiff even though, Mr. Cueff had alienated his entire staff which Mr. Goerke knew.

70. During the performance review Mr. Goerke assured Plaintiff that hiring managers did not consider a candidate’s performance review rating in the selection process and that a rating of “3” would have no bearing on potential career opportunities. Plaintiff investigated and found that the “LM Careers” procedures clearly state that the performance rating is submitted along with the resume for all future jobs applied for in the company. In an effort to have her performance rating reconsidered, Plaintiff submitted this information by email to Mr. Goerke on January 17, 2007, who responded: “In the past, I have never seen a PRS rating on a Bidder Resume that was pulled from LM People.”

71. Shortly thereafter, Plaintiff complained to Ms. Cleveland-Nathaniel that she felt she was being discriminated against because she was female. Plaintiff asked if women were fairly represented in the distribution (of performance ratings) but Ms. Cleveland-Nathaniel said she did not have the relevant data available. Plaintiff explained the history of the positions she had been passed over for (and not even interviewed for), the unfair performance reviews she received, the lack of support from her supervisor, and the unfair standard to which she was continuously being subjected.

Ms. Cleveland-Nathaniel response was: "We got to get you out of there."

72. On or about May 11, 2007, Plaintiff had a discussion with Mr. Thomas, President of Operations and Supply Chain Management, in which Plaintiff again expressed her interest in a Director-level position. On or about August 28, 2007, Plaintiff had a follow-up discussion with Mr. Thomas and told him that she was ready for a "stretch assignment." Mr. Thomas told Plaintiff that he did not think she was ready to take on this responsibility because she had not performed well on a previous project. This was completely untrue. Mr. Goerke had failed to advise Mr. Thomas of the work Plaintiff had been doing which qualified her for a stretch assignment. Mr. Thomas and Plaintiff agreed that Plaintiff would continue to send her progress reports to Mr. Goerke, but that Plaintiff would also copy Mr. Thomas. Mr. Thomas also said that he would look into finding a mentor for Plaintiff since he admitted that a sponsor/mentor is important for any successful application to a Director-level position. Mr. Thomas has never followed on aiding Plaintiff in finding a sponsor/mentor.

73. The promotion of Mr. O'Brien to Director of Operations and Facilities on October 1, 2007, left open his former position, Director of Facilities and Business Services, Grade 7 within the MS2 business unit, Electronic Systems business area. Plaintiff spoke with Mr. Gregory Holden, HR Director (Ms. Cleveland-Nathaniel's replacement), about this vacant Director position. He strongly encouraged Plaintiff to speak to Ms. Katina Williams, HR Representative, and the hiring manager, Mr. David Broadbent. Plaintiff sent her resume to Mr. Broadbent on October 1, 2007, noting her relevant experience and educational background. Mr. Broadbent responded the same day saying that they were building the slate of candidates and that he would ensure that

Plaintiff's name was considered.

74. On or about October 14, 2007, Plaintiff called Ms. Williams who advised that Mr. Broadbent was finalizing the slate of candidates. Plaintiff followed up with Ms. Williams several times but could not get in touch with her, so Plaintiff emailed Mr. Broadbent on or about November 9, 2007. He responded to Plaintiff the same day via telephone. Among other things, Mr. Broadbent told Plaintiff that she was not interviewed for the position because she did not have any relevant experience. Plaintiff discussed with him her understanding that at a Director-level position, the ability to manage and lead is more important than specific subject matter knowledge, since you have experts in the field reporting to you. Plaintiff asked him what operations experience he had when he became Vice President of Operations. He admitted that he had none, adding the explanation that he had experts in this area reporting to him. Plaintiff told him that she felt that Defendant was applying different rules for different categories of people and asked him how many women were considered for this position. He said that no women had been considered.

75. On or about November 19, 2007, Plaintiff met with Mr. Holden to discuss her conversation with Mr. Broadbent the previous week. Plaintiff asked Mr. Holden why Defendant could not find a single qualified candidate that was female. Mr. Holden did not answer the question; instead, he asked whether Plaintiff ever considered consulting (i.e. leaving Defendant's employment). Among other things, Plaintiff told him that she had never seen a woman get a "stretch" assignment and fail but she had seen plenty of men get "stretch" assignments and fail. Plaintiff speculated that this is because Defendant is never willing to take a risk with a woman. When a female gets what is

called a “stretch” assignment, it is usually something for which she is already over-qualified and is not a stretch at all, while men are often given opportunities well out of their normal business area. Plaintiff also showed Mr. Holden a copy of Mr. Broadbent’s organizational chart and asked him: “What’s wrong with this picture?” (as there were no women in his organization). Mr. Holden said he is sure that if there were a qualified female candidate Mr. Broadbent would consider them.

76. On or about December 7, 2007, Plaintiff had her performance review with Mr. Goerke. Again he gave Plaintiff the middle rating (3): “Successful Contributor,” even though Plaintiff met or exceeded every goal. Plaintiff told him she felt she was not given one of the two highest ratings because she is a woman and felt he was saving the higher ratings for the men. Upon information and belief, supervisors are required to distribute their evaluative ratings of the employees they evaluate according to a “bell curve,” supervisors are only allowed to give a limited number of Exceptional (1) or High (2) Contributor ratings. Plaintiff asked how many women he rated Exceptional or High and he said that he was not sure. Plaintiff told him that she believed that women were not fairly represented during the ranking/rating sessions. His response was that there was one woman (of the thirteen present) among the team: Barbie Bigelow, Chief Information Officer. Again, this rating resulted in a lower pay increase than Plaintiff would have received had she been rated “High Contributor” or “Exceptional Contributor.”

77. On or about January 2, 2008, Plaintiff learned that Mr. Broadbent promoted another male, James Morris, formerly a Senior Manager in Manassas, Virginia in the MS2 business unit of the Electronic Systems business area into a

position at MS2, Moorestown, New Jersey. This position was not posted and Plaintiff was never interviewed for it. Upon information and belief, Mr. Morris was less qualified for this position than Plaintiff. Mr. David Broadbent was the decision maker.

78. On or about January 11, 2008, Plaintiff applied for a promotion to the position of Principle Project Specialist, grade E6H, reporting to Mr. Stephen Wylong in the MS2 business unit of the electronic systems business area. Plaintiff was interviewed twice but was not awarded the position. Mr. Robert Garner was awarded the position. Upon information and belief, Mr. Garner was less qualified for this position than she. Mr. Wylong was the decision maker.

79. In March, 2008, Plaintiff learned that Mr. Feeney of IS&GS had been again promoted to a newly created job, Subcontract Program Director, L7 within the Corporate business area reporting to Mr. John Hatch, Vice President. Mr. Hatch was the decision maker. This position was never posted. Upon information and belief, Mr. Feeney was less qualified for this position than Plaintiff.

80. In June, 2008, Plaintiff applied for an open position Program Management, Subcontract Senior Manager, Grade 6G within the MAC-MAR business unit of the Electronic Systems business area. Plaintiff was interviewed in August, 2008. This was the fourth job in Mr. Broadbent's organization that Plaintiff had applied for (this organization has all men reporting to him). Plaintiff had previously applied for one reporting to Mr. Broadbent, one reporting into Mr. Bob Engle (who reports into Mr. Broadbent), one reporting to Mr. Vince Dothard (who reports to Mr. Engle) and this one reporting (dotted line) to Steve Reuter (who reports to Mr. Dothard). On August 14, 2008, Plaintiff learned that she was not awarded the position. The position was

awarded to Mr. Kevin Hickey who is male and less qualified than Plaintiff. The decision makers were Mr. Michael Roche and Mr. Steve Reuter.

81. In July, 2008, Plaintiff applied for a Subcontract Program Director, Grade 7 position in the Enterprise/Corporate business area. Plaintiff was not interviewed. On September 29, 2008, Plaintiff learned that the position had been awarded to Mr. Lee Withington, formerly in the Aeronautics business area. The position was not posted. Upon information and belief, Plaintiff was more qualified for the position than Mr. Withington. The decision maker was Mr. Hatch.

82. In July, 2008, Plaintiff learned of an open position as a Corporate Enterprise Program Management Director. Plaintiff asked Doug Goerke to present her as an applicant to John Hatch. Plaintiff sent over her resume for the position to Mr. Hatch on July 17, 2008. Plaintiff was not interviewed despite the fact that other less well qualified applicants were. The position was not posted. Mr. Hatch was the decision maker.

83. In addition, throughout 2007 and 2008, Plaintiff learned of and applied for the following positions graded 6G for which she was not interviewed. Plaintiff believes that in each instance she was a qualified candidate and should have been interviewed. Also, in each instance, the decision maker was male.

a) Program Management Senior. Level 6G (USAF Aircraft Tire/FASI);  
(requisition number 6816BR and 7017BR);

b) Program Management, Senior Manager 6G (Norway New Frigate);  
(requisition number 18344BR);

c) Program Management, Senior Manager 6G (Aegis); (requisition

number 2441BR);

d) Program Management, Senior Manager 6G (Canada Halifax);  
(requisition number 86660 BR); and,

e) Program Management, Senior Manager, 6G (Deepwater); (requisition number 24064BR).

84. In November, 2008, Plaintiff learned that an open position as Program Management, Senior Manager was filled by Mr. Brian Frasco. Plaintiff was not interviewed for the position even though she was more qualified than Mr. Frasco. Mr. Frasco now reports to Mr. Timothy Fuhr. There are eight direct reports to Mr. Fuhr none of whom are female.

85. In November, 2008, Plaintiff also learned that Mr. David Lahta was promoted to a Director-level position for which she was more qualified. The position was never posted.

86. After the filing of the instant Complaint, in February, 2009, Plaintiff received a merit increase as well as a "discretionary salary adjustment". On information and belief, Plaintiff's discretionary salary adjustment was an "Equity Adjustment-EEO related salary adjustment" as defined in the Lockheed Martin FOCUS Discretionary Adjustment policy.

87. As stated in the Lockheed Martin human resources policies: "Equity Adjustment- EEO-related salary adjustments. Adjustments are based on in-depth compa-ratio analysis to correct discrepancies for which there was not clear documentation of rationale based on legitimate business factors. The adjustments are discussed with management and entered into FOCUS by HR/Compensation." Plaintiff

believes that Lockheed Martin has made a series of these EEO adjustments as a result of the filing of Plaintiff's Complaint and because it knows that it underpays its salaried female employees, including Plaintiff and the Class. The Lockheed Martin FOCUS system has the capability of reporting all EEO Adjustments for any given period.

88. Plaintiff's sex and the sex of the Class was a motivating and/or determinative factor in Defendant's discriminatory treatment of Plaintiff and the Class.

89. Defendant's compensation practices and policies, bell curve evaluation system, mentoring/sponsors policies, "stretch" positions policies, posting and promotion policies have the intention and effect of discriminating against Plaintiff, and the Class.

90. Defendants compensation practices and policies, bell curve evaluation system, mentoring/sponsors policies, "stretch" positions policies, posting and promotion policies result in disparate impact against Plaintiff and the Class.

## **COUNT I**

### **SEX DISCRIMINATION UNDER TITLE VII**

#### **Carol Bell and Class**

91. Plaintiff incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 90 above.

92. This claim is brought on behalf of Plaintiff and the Class she represents.

93. The foregoing conduct violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 (e), *et seq.*

94. Carol Bell filed charges of discrimination against Lockheed Martin which are attached as Exhibits 1 and incorporated herein by reference. From the filing of her first EEOC charge, the class nature of Ms. Bell's charge has been known to Defendant.

95. Lockheed Martin has and continues to maintain procedures and practices for making decisions about promotions, assignments and compensation that is excessively subjective and which have an adverse impact on its female employees including plaintiff and the Class. These procedures and practices have no business justification.

96. Lockheed Martin has intentionally discriminated against Plaintiff and the Class and has maintained procedures and practices for making decisions about promotions, assignments and compensation that are excessively subjective and through which it discriminates against its female employees. including Plaintiff and the Class. By committing the foregoing acts of discrimination against Plaintiff and the Class, Defendant has willfully and intentionally engaged in unlawful sexual discrimination in violation of Title VII.

97. The sex of Plaintiff and the Class was a motivating and/or determination factor in Defendant's treatment of Plaintiff and the Class.

98. As a direct and proximate result of the aforesaid unlawful employment practices engaged in by Defendant, in violation of Title VII, Plaintiff and the Class incurred in the past, and will in the future incur, damages, including without limitation, loss of wages and benefits, pain and suffering, embarrassment, humiliation, mental anguish, sustained loss of future earnings, severe emotional and psychological distress, loss of self esteem, loss of enjoyment of life and loss of future earning capacity, the full extent of which is not known at this time. Plaintiff and the Class are entitled to declaratory and injunctive relief, front pay or reinstatement, compensatory and punitive damages and interest due thereon as well as attorneys' fees and costs and such other

damages and relief as allowed by law or in equity.

99. The foregoing conduct of Defendant was intentional, malicious, wanton, outrageous under the circumstances and performed either recklessly or with callous disregard to Plaintiff's and the Class' federally protected rights. They were done by and with the knowledge of upper management of Defendant and warrant the imposition of punitive damages.

100. As a direct and proximate result of Defendant's violation of Title VII, Plaintiff and the Class will continue to suffer irreparable injury and monetary damages unless and until this Court grants the relief requested herein.

101. Plaintiff and the Class are entitled to the relief requested in its Prayer for relief below, including declaratory and injunctive relief.

102. No previous application has been made for the relief requested herein.

## **COUNT II**

### **RETALIATION UNDER TITLE VII (Carol Bell)**

103. Plaintiff incorporates by reference as if fully set forth herein, the allegations of paragraphs 1 through 102 above.

104. Defendant retaliated against Plaintiff for questioning the discriminatory behavior and motivation of Defendant with respect to its female employee, for claiming that she and the other female employees were being discriminated against and asking that the discrimination be corrected, and for filing the instant Complaint.

105. Defendant's retaliation included, but was not limited to, Defendant's failure to select Plaintiff for subsequent promotions despite her being the most well qualified candidate; underrating plaintiff's performance evaluations; failing to correct her pay

disparity based on gender; failure to select Plaintiff for any Leadership Institute, stretch or other advancement track assignments, failing to facilitate a mentor/sponsor for Plaintiff, to fully perform her job responsibilities.

106. Plaintiff's complaints of discrimination were a motivating and/or determinative factor in Defendant's retaliatory treatment of Plaintiff.

107. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendant has willfully and intentionally engaged in unlawful retaliation in violation of Title VII.

108. As a direct and proximate result of the aforesaid unlawful employment practices engaged in by Defendant, in violation of Title VII. Plaintiff has incurred in the past and will in the future incur damages, including without limitation, loss of wages and benefits, pain and suffering, embarrassment, humiliation, mental anguish, sustained loss of future earnings, severe emotional and psychological distress, loss of self esteem, loss of enjoyment of life, and loss of future earning capacity, the full extent of which is not known at this time. Plaintiff is entitled to declaratory and injunctive relief, back pay, front pay or reinstatement, compensatory and punitive damages and interest due thereon as well as attorneys' fees and costs and such other damages and relief as allowed by law or in equity.

109. The foregoing conduct of Defendant was intentional, malicious, wanton, outrageous under the circumstances and performed either recklessly or with callous disregard to Plaintiff's federally protected rights. It was done by and with the knowledge of upper management of Defendant and warrants the imposition of punitive damages.

110. As a direct and proximate result of Defendant's violation of Title VII,

Plaintiff will continue to suffer irreparable injury and monetary damages unless and until this Court grants the relief requested herein.

111. Plaintiff is entitled to the relief requested in her Prayer for Relief below, declaratory and injunctive relief.

112. No previous application has been made for the relief requested herein.

### **COUNT III**

#### **SEX DISCRIMINATION UNDER NJ LAD (Bell and Subclass)**

113. Plaintiff incorporates herein by reference paragraphs 1 through 112 above, as if set forth herein in their entirety.

114. This claim is brought on behalf of Plaintiff and the Subclass she represents. Carol Bell filed charges of discrimination against Lockheed Martin which are attached as Exhibits 1 and incorporated herein by reference. From the filing of her first EEOC charge, the class nature of Ms. Bell's charge has been known to Defendant.

115. Defendant, by the above-described discriminatory acts, has violated the New Jersey Law Against Discrimination ("NJLAD").

116. Lockheed Martin has and continues to maintain procedures and practices for making decisions about promotions, assignments and compensation that are excessively subjective and which have an adverse impact on its female employees, including Plaintiff and the Subclass. These procedures and practices have no business justification.

117. Lockheed Martin has intentionally discriminated against Plaintiff and the Subclass and has maintained procedures and practices for making decisions about

promotions, assignments and compensation that are excessively subjective and through which it discriminates against its female employees, including Plaintiff and the Subclass. By committing the foregoing acts of discrimination against Plaintiff and the Subclass, Defendant has willfully and intentionally engaged in unlawful sexual discrimination and harassment in violation of NJ LAD.

118. Members of upper management of Defendant had actual participation in, or willful indifference to, the wrongful conduct described herein and Defendant's conduct warrants the imposition of punitive damages.

119. As a direct and proximate result of Defendant's violations of the NJLAD, Plaintiff and the Subclass have sustained the injuries, damages and losses set forth herein, and have incurred attorney's fees and costs.

120. Plaintiff and the Subclass are entitled to the relief requested in its Prayer for Relief below, including declaration and injunctive relief.

121. Plaintiff and the Subclass are now suffering, and will continue to suffer, irreparable harm and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

122. No previous application has been made for the relief requested herein.

#### **COUNT IV**

#### **RETALIATION UNDER THE NEW JERSEY LAW AGAINST DISCRIMINATION ("NJLAD") (Carol Bell)**

123. Plaintiff incorporates herein by reference paragraphs 1 through 122 above, as it set forth herein.

124. Defendant, by the above-described retaliatory acts, has violated the NJLAD.

125. Said violations were intentional and willful.

126. Members of upper management of Defendant had actual participation in, or willful indifference to, the wrongful conduct described herein and Defendant's conduct warrants the imposition of punitive damages.

127. As a direct and proximate result of Defendant's violations of the NJLAD, Plaintiff has sustained the injuries, damages and losses set forth herein, and has incurred attorney's fees and costs.

128. Plaintiff is now suffering, and will continue to suffer, irreparable harm and monetary damages as a result of Defendant's retaliatory acts unless and until this Court grants the relief requested herein.

129. Plaintiff is entitled to the relief requested in its Prayer for Relief below, including declaration and injunctive relief.

130. No previous application has been made for the relief requested herein.

### **RELIEF ALLEGATIONS**

131. Plaintiff and the Class and Subclass represent that they have no plain, adequate or complete remedy in law to redress the wrongs alleged herein, and the injunctive relief sought in this action is the only means of securing complete and adequate relief. Plaintiff and the Class and Subclass are now suffering and will continue to suffer irreparable injury from Defendant's discriminatory acts and omissions.

132. Defendant has caused and continues to cause Plaintiff and all Class and Subclass members substantial losses in earnings, promotional opportunities, training,

mentoring and other employment benefits.

133. Plaintiff and the Class and Subclass are entitled to recover punitive damages as a result of Defendant's malice or reckless indifference to their protected rights.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and the Class and Subclass pray that the Court grant relief as follows:

- a) Certification of Counts I and III as a class action on behalf of the proposed Class and Subclass;
- b) Designation of Plaintiff Carol Bell as representative of the Class and Subclass;
- c) Appointment of Console Law Offices LLC as Class counsel of record for the Class and Subclass;
- d) A declaratory judgment that the practices complained of herein are unlawful and violate Title VII and the NJLAD;
- e) An adjudication that Defendant's violations of Title VII and NJLAD were willful;
- f) A preliminary and permanent injunction against Defendant and its officers, agents, successors, employees, representatives, and all persons acting in concert with them, as provided by law, to prohibit each of the unlawful practices, policies, and patterns set forth herein;
- g) An Order that Defendant employ some method to confirm that future decisions affecting employee pay, assignments to promotion track positions and

promotions are made without regard to sex;

h) An Order that Defendant institute sufficient policies to deter and prevent discrimination based on sex in pay, assignments to promotion track positions and promotion;

i) An Order that Defendant institute a policy which provides for appropriate remedial and corrective action for violators of said policy;

j) An Order instating Carol Bell and the Class and Subclass to their rightful positions and adjusting their compensation, including wages and benefits to those which would have been attained but for Defendant's discriminatory practices;

k) An award to Plaintiff Carol Bell and the Class and Subclass of all damages suffered as a result of Defendant's unlawful conduct including back pay, front pay, reinstatement, promotion, payment of lost compensation and benefits, liquidated damages, compensatory damages, and such other legal or equitable relief as the Court deems appropriate to effectuate the purposes of all statutes pled;

l) An award to Carol Bell, the Class and Subclass of exemplary and punitive damages in an amount commensurate with Defendants' ability to pay and to deter future conduct;

m) An award of reasonable attorneys' fees and costs incurred by and on behalf of Plaintiff and the respective Class and Subclass to be paid by Defendant;

n) Pre-judgment and post-judgment interest, as provided by law; and,

o) Such other and further and legal equitable relief as this Court deems necessary, just and proper.

Dated: March 18, 2009

Respectfully submitted,

CONSOLE LAW OFFICES LLC

By: s/ Stephen G. Console  
Stephen G. Console  
Carol A. Mager  
Laura C. Mattiacci  
James Duttera  
Console Law Offices LLC  
1525 Locust Street, 9th Floor  
Philadelphia, PA 19102  
215-545-7676  
215-545-8211 (fax)  
console@consolelaw.com  
mager@consolelaw.com  
mattiacci@consolelaw.com  
duttera@consolelaw.com

Attorneys for Plaintiff