

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

**MARCEL “MARC” T. THOMAS, individually and on behalf of a class of similarly situated African-American employees,**

**Plaintiffs,**

**-- against --**

**GENERAL ELECTRIC COMPANY,  
GE TRANSPORTATION,  
GE AVIATION MATERIALS, L.P. a/k/a GEAM,  
JEFFREY R. IMMELT,  
DAVID L. CALHOUN,  
DANIEL “DAN” C. HEINTZELMAN,  
CHARLENE T. BEGLEY,  
JOHN “JACK” F. RYAN,  
MARC A. CHINI,  
WILLIAM “BILL” J. CONATY,  
CLAUDIO X. GONZALEZ,  
ANDREA JUNG,  
RALPH S. LARSEN,  
SAM NUNN, and  
DOUGLAS A. WARNER III,**

**Defendants.**

**CLASS ACTION  
COMPLAINT**

**Civ. No. \_\_\_\_\_**

**JURY TRIAL DEMAND**

1. Plaintiff **MARCEL “MARC” T. THOMAS** (“Class Representative,” “Mr. Thomas” or “Plaintiff”), brings this law suit on his own behalf and on behalf of a class of similarly situated African-American managers and professional level employees against the **GENERAL ELECTRIC COMPANY** Defendants for *inter alia*: (1) Race Discrimination, and (2) Injunctive Relief to change GE’s racist and subjective pay and promotion policies and procedures.

2. Plaintiff sues (i) Defendant **GENERAL ELECTRIC COMPANY** (“GE”); (ii) Defendants **GE TRANSPORTATION** and **GE AVIATION MATERIALS, L.P.** (“GEAM”

or “the Company”); (iii) individual Senior Management and/or Officers, Defendants **JEFFREY R. IMMELT, DAVID L. CALHOUN, DANIEL “DAN” C. HEINTZELMAN, CHARLENE T. BEGLEY, JOHN “JACK” F. RYAN, MARC A. CHINI, and WILLIAM “BILL” J. CONATY,** and (iv) GE’s Board of Directors, Defendants **CLAUDIO X. GONZALEZ, ANDREA JUNG, RALPH S. LARSEN, SAM NUNN, and DOUGLAS A. WARNER III,** who are all members of the Management Development and Compensation Committee (the “Compensation Committee”), who carried out and/or assisted the wrongful acts described in this Complaint. (collectively “the GE Defendants,” “Defendants” or “the Company,” unless otherwise specified).

3. Plaintiff Mr. Thomas alleges, upon knowledge as to his own acts, and upon information and belief, as follows:

**I. INTRODUCTION AND OVERVIEW OF THE CLASS-WIDE RACIAL DISCRIMINATION AT GENERAL ELECTRIC**

4. At a recent “town hall-style” meeting broadcast to some 300,000 GE employees on March 22, 2005, the CEO and Chairman of General Electric Company, Defendant Jeffrey R. Immelt (“Immelt”), was asked why the “senior leadership” at GE is run “predominantly by [white] men.” Surveying the sea of principally white faces in the room, Immelt replied that as far as he was concerned, the concentration of men in leadership positions at GE is “o.k.” To measure how well GE is doing, he said, the proof is in the numbers:

Diversity is about the percentage of women and African-Americans and global talent that are in the leadership of the company . . . **that [ ] is the only metric that ultimately counts about how your diversity program is going.** And, I’d say look, we’re doing o.k. (emphasis added).

5. If, as Immelt insists, “the percentage of [ ] African-Americans” in leadership roles in the company “is the only metric that ultimately counts,” then GE is **not** “doing o.k.” As of

Spring 2005, the “leadership team” at GE is a restricted club. There are only about 160 African-Americans out of GE’s approximately 4,500 “Executive Band” level (“EB”) employees, which constitutes a paltry 3.6%.

6. At the even higher “Senior Executive Band” level (“SEB”) at GE, there are only about 23 African-Americans out of approximately 465 SEB employees, which equals approximately 4.9%.

7. The paucity of African-Americans continues at the highest employment band level at GE – the “Officer” level. Here, African-Americans comprise just 6 out of 180 Officer positions, barely 3.3% of all Officers.

8. In addition to the small percentage of African-American employees at the higher reaches of GE, there is an escalating departure of African-Americans and minorities from the Company. Soaring minority attrition is a fact known to senior management. But GE has done nothing to change the imbedded “white” management culture that is unwilling to promote deserving African-Americans either at the higher or lower levels of GE.

9. Although Defendants publicly state that they promote diversity and purport to be the “Global Employer of Choice,” they have (i) failed to pay African-American managers and other professional level employees on par with the pay of white managers and professionals; (ii) failed to promote African-American managers and professionals to senior leadership positions; (iii) failed to effectively enforce procedures and policies prohibiting race discrimination; and (iv) retaliated against employees who have protested Defendants’ discriminatory policies, procedures and/or patterns. Upon information and belief, GE’s internal statistics show race discrimination against the class of African-American managers and professional level employees in pay and promotion (hereafter collectively “managers”).

10. Plaintiff Marc Thomas is one of GE's top-performing, African-American managers. His experience is typical of the experiences of other African-American managers trying to move into higher positions at GE.

11. Given the "titles" of President, Chairman and CEO of Defendant General Electric Aviation Materials, L.P. ("GEAM") in 2004, Mr. Thomas recently led this GE Transportation company to an extraordinary 162% profit growth in the first quarter of 2005 over the previous year. Sales also increased at GEAM by 35%. Under Mr. Thomas' leadership, in 2004 GEAM had an 89% profit increase, the highest increase of any of GE's nine GE Transportation subsidiary companies.

12. In addition to reversing the company's weak financial performance, Mr. Thomas cured GEAM's long-standing, discriminatory practices. Under his leadership, GEAM:

- Implemented a bonus policy based on merit, rather than on race, gender and cronyism, as the policy had existed under Mr. Thomas' predecessor;
- Implemented company-wide employment guidelines in accord with established GE practices that required parity in vacation, perks and attendance; and
- Implemented policies that forbid racial innuendos and slurs – such as GEAM PowerPoint presentations that portrayed GEAM as a company free of blacks – activities that were tolerated in the workplace under Mr. Thomas' predecessor.

13. In addition to the above, Marc Thomas has taken courageous and ethical positions during his tenure at GE. For example, he objected to the GE scheme to force an older employee out of the company; he eliminated the practice of permitting favored white employees to take extended vacations; and he questioned GE's anti-competitive plan to create a scarcity of used materials.

14. Instead of promoting Mr. Thomas to a senior management position based on his impressive achievements and courageous stands, GE informed Mr. Thomas that his future at GE is over. Just months after Mr. Thomas implemented a merit-based, non-discriminatory bonus plan, GE's "leaders" told Mr. Thomas that he would not be promoted, would not receive a salary increase nor the stock options awarded to top performers, and would not merit a bonus commensurate with his performance.

15. As his reward for turning the company around in 2004, GE Transportation unleashed its Senior Human Resources ("HR") manager, Defendant Jack Ryan, to interview white GEAM employees who, upon information and belief, were complaining that Mr. Thomas had decreased their perks and was working them too hard. Defendant Jack Ryan also conducted roundtable discussions outside of Mr. Thomas' presence designed to undermine his authority and disparage him to his subordinates.

16. Until 2005, Mr. Thomas' annual ratings at GE were always "Top Talent/Highly Promotable," a rating awarded to the highest ten to twenty percent of all GE employees. In 2005, however, when it came time to promote Mr. Thomas to a senior management position for his remarkable achievements, GE dramatically dropped his rating to "Least Effective" – the lowest rating and one reserved for the bottom seven to ten percent of all GE employees.

17. The GE Defendants lowered Mr. Thomas' performance rating in retaliation for Mr. Thomas having described to GE and its in-house Legal Department in early 2005 the particulars of race discrimination at GE. The GE Defendants retaliated against him almost immediately in April 2005 with an end-of-the-year performance review ("Least Effective") that all but insures the end to one's career at GE.

18. To GE, Mr. Thomas was just another African-American manager who could be passed over for promotion and paid less than his non-minority counterparts. Mr. Thomas exemplifies the racial barriers facing GE's minority employees.

19. Mr. Thomas brings this action individually and on behalf of a class of all similarly situated African-American managers against whom GE has systematically discriminated, by (i) denying African-American managers the same pay and perquisites afforded other white managers, and (ii) denying African-Americans promotions that are awarded to less qualified white employees. For himself and the class, Plaintiff seeks monetary and equitable relief based on GE's discriminatory denial of equal remuneration and promotion.

20. Mr. Thomas and the class of African-American managers at GE have been treated differently from similarly situated white managers. Based on their race, African-American managers such as Mr. Thomas have been denied promotional opportunities, senior management positions, equal pay, comparable retention ratings, bonuses and other benefits of employment.

21. Although Defendants may have strongly worded anti-discrimination policies, far too many of the company's Caucasian managerial and supervisory employees are ineffectively policed, are rarely disciplined for violating the rights of African-Americans, and ignore GE's stated policies by making decisions disadvantageous to African-Americans.

22. This class action seeks to modify and reform Human Resources policies and procedures ("HR procedures") at GE that foster the wide-spread discrimination and prevent African-Americans from rising to leadership positions at GE. These HR procedures encourage and inject an unbridled amount of subjectivity in (a) the performance appraisal system, and (b) pay and promotion decision-making.

## II. JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. §1332(a)(1), Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e)-5(f), *et seq.*, as amended (“Title VII”), and the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended (“§ 1981”), to redress and enjoin employment practices of Defendants in violation of these statutes.

24. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states.

25. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b) and 42 U.S.C. 2000e-5(g) because Defendant GE is headquartered in Fairfield, Connecticut, and many of the unlawful employment practices were committed in this District. In addition, upon information and belief, all of the Defendant-Director members of Defendant GE’s Management Development and Compensation Committee (the “Compensation Committee”) attend numerous meetings each year in Fairfield, Connecticut.

26. Plaintiff has standing to bring this suit as he has duly filed his administrative charge before the EEOC and Connecticut Commission on Human Rights & Opportunities and is in the process of perfecting his right to sue.

27. Plaintiff and the class bring this action in Federal Court in order to challenge the inherently unfair and biased “Dispute Resolution Program” (“DRP”) enacted by Defendants to prevent any effective challenge to racial discrimination on an individual and classwide basis at GE. Defendants have crafted a company-friendly, non-litigative dispute mechanism that prevents employees from obtaining required documents, depositions, and other evidence necessary for full and fair hearing of the issues concerning racial discrimination.

28. Among other restrictions, GE's DRP places a gag order on any GE employee who wishes to speak with victims of racially discriminatory employment practices. While GE employees are barred from speaking to Mr. Thomas, the DRP allows GE to contact Mr. Thomas' fellow employees, thereby enabling the Defendants to pressure such employees to hide the truth and cover up GE's discriminatory practices.

29. Plaintiff and the class thus bring this action in United States Federal Court rather than use a four-step, procedurally deficient Dispute Resolution procedure. The GE dispute process provides an illusory basis to challenge employment discrimination because it does not create a context in which to (a) litigate fairly a class action or an individual claim of race discrimination; (b) protect the interests of class members; or (c) retain continuing jurisdiction over the course of a consent decree.

30. Further, this action is properly brought in Federal Court because under GE's DRP, employees are expressly permitted to bring court actions that seek to "modify" GE's "policies or procedures," as this suit does.

### **III. THE PARTIES**

31. At all times relevant to this action, **Plaintiff Marc Thomas** has been a resident of both Texas and Pennsylvania. Mr. Thomas has been a manager at GE since 2001, and is currently CEO, President and Chairman of General Electric Aviation Materials, L.P.

32. At all times relevant to this action, **Defendant General Electric Company** is and has been a multi-national company headquartered in Fairfield, Connecticut.

33. At all times relevant to this action, **Defendant GE Transportation** is and has been a multi-billion dollar company and a division of Defendant GE. GE Transportation comprises aircraft engines, rail, marine and off-highway business units and is headquartered in

Cincinnati, Ohio. GE Transportation's products and services include jet engines for military and civil aircrafts, freight and passenger locomotives, motorized systems for mining trucks and drills, and gas turbines for marine and industrial applications.

34. At all times relevant to this action, **Defendant GE Aviation Materials, L.P.** ("GEAM") is a subsidiary of GE Engine Services, Inc ("GEES"). GE Engine Services is and has been a division of GE Aircraft Engines ("GEAE"), which in turn is a wholly owned subsidiary of Defendant GE Transportation. GEAM is headquartered in Irving, Texas.

35. At all times relevant to this action, **Defendant Jeffrey R. Immelt** ("Immelt") is and has been the CEO and Chairman of GE, and is the Chairman of the Board of Directors of GE. Immelt is and has been a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in his capacities as the CEO and Chairman of GE and as the Chairman of the Board. Immelt approved, ratified and/or assisted in the wrongful acts described in this Complaint.

36. At all times relevant to this action, **Defendant David L. Calhoun** ("Calhoun") is and has been the President and CEO of GE Transportation. Calhoun approved, ratified and/or assisted in the wrongful acts described in this Complaint.

37. At all times relevant to this action, **Defendant Daniel "Dan" C. Heintzelman** ("Heintzelman") is and has been the Vice President and General Manager for GE Engine Services, Inc. Heintzelman approved, ratified and/or assisted in the wrongful acts described in this Complaint.

38. At all times relevant to this action, **Defendant Charlene T. Begley** ("Begley") is and has been the President and CEO of GE Transportation Rail ("GE Rail"). GE Rail is and has been a wholly-owned subsidiary of Defendant GE Transportation headquartered in Erie,

Pennsylvania, and is a self-described “global technology leader and supplier to the railroad, transit, marine engine and mining industries.” Begley approved, ratified and/or assisted in the wrongful acts described in this Complaint

39. At all times relevant to this action, **Defendant John “Jack” F. Ryan** (“Ryan”) is and has been the Vice President of Human Resources for GE Engine Services. Ryan approved, ratified and/or assisted in the wrongful acts described in this Complaint.

40. At all times relevant to this action, **Defendant Marc A. Chini** (“Chini”) is and has been the Vice President of Human Resources for GE Transportation. Chini approved, ratified and/or assisted in the wrongful acts described in this Complaint.

41. At all times relevant to this action, **Defendant William “Bill” J. Conaty** (“Conaty”) is and has been the Senior Vice President of Human Resources for GE, headquartered in Connecticut, and is, upon information and belief, the senior GE officer who reports to and assists the GE Compensation Committee. Conaty approved, ratified and/or assisted in the wrongful acts described in this Complaint.

42. At all times relevant to this action, **Defendant Claudio X. Gonzalez** (“Gonzalez”) is and has been a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in this capacity as a member of the Board of Directors of Defendant GE. Gonzalez is a member of GE’s Compensation Committee, which upon information and belief, regularly meets in Connecticut, is responsible for all of the policies under which compensation is paid or awarded to the company’s executive officers, and is also responsible for assisting in evaluating and developing candidates for executive positions. Gonzalez approved, ratified and/or assisted in the wrongful acts described in this Complaint.

43. At all times relevant to this action, **Defendant Andrea Jung** (“Jung”) is and has been a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in her capacity as a member of the Board of Directors of Defendant GE. Jung is a member of GE’s Compensation Committee, which upon information and belief, regularly meets in Connecticut, is responsible for all of the policies under which compensation is paid or awarded to the company’s executive officers, and is also responsible for assisting in evaluating and developing candidates for executive positions. Jung approved, ratified and/or assisted in the wrongful acts described in this Complaint.

44. At all times relevant to this action, **Defendant Ralph S. Larsen** (“Larsen”) has been and is a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in his capacity as a member of the Board of Directors of Defendant GE. Larsen is a member of GE’s Compensation Committee, which upon information and belief, regularly meets in Connecticut, is responsible for all of the policies under which compensation is paid or awarded to the company’s executive officers, and is also responsible for assisting in evaluating and developing candidates for executive positions. Larsen approved, ratified and/or assisted in the wrongful acts described in this Complaint.

45. At all times relevant to this action, **Defendant Sam Nunn** (“Nunn”) is and has been a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in his capacity as a member of the Board of Directors of Defendant GE. Nunn is a member of GE’s Compensation Committee, which, upon information and belief, regularly meets in Connecticut, is responsible for all of the policies under which compensation is paid or awarded to the company’s executive officers, and is also responsible for assisting in evaluating

and developing candidates for executive positions. Nunn approved, ratified and/or assisted in the wrongful acts described in this Complaint.

46. At all times relevant to this action, **Defendant Douglas A. Warner III** (“Warner”) is and has been a resident of the State of Connecticut and/or has worked and continues to work in Connecticut in his capacity as a member of the Board of Directors of Defendant GE. Warner is a member of GE’s Compensation Committee, which upon information and belief, regularly meets in Connecticut, is responsible for all of the policies under which compensation is paid or awarded to the company’s executive officers, and is also responsible for assisting in evaluating and developing candidates for executive positions. Warner approved, ratified and/or assisted in the wrongful acts described in this complaint.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Plaintiff Thomas’ Educational, Military, White House & Work Background Prior To His Employment With General Electric**

47. Plaintiff Marc Thomas embodies the American dream. Raised in a low-income neighborhood in San Francisco, California, Mr. Thomas overcame numerous childhood obstacles and graduated in 1984 from Stanford University with a Bachelor of Science degree.

48. Mr. Thomas was commissioned as an officer in the United States Army and, as a “Green Beret” commander, led a Special Forces team from 1985 through 1990. While serving with Special Forces, Mr. Thomas trained and engaged in unconventional warfare, foreign internal defense, special reconnaissance and counter-insurgency/terrorist operations. In 1991, Mr. Thomas voluntarily left graduate school to lead a rapid training/readiness effort of a newly formed Special Forces battalion deploying into the Saudi Arabian Theater of War during Operation Desert Shield/Storm.

49. After receiving a Masters in Business Administration (“MBA”) in International Finance and a Masters of Science in Industrial Engineering (“MS”) from Columbia University in 1992, Mr. Thomas became an Assistant Professor in the Department of Systems Engineering at the United States Military Academy at West Point (“West Point”). At West Point, as the course director for 320 cadets enrolled in the Engineering Management and Systems Engineering curricula, Mr. Thomas led five senior officers and professors.

50. In 1994, Mr. Thomas was appointed by President Bill Clinton to be a White House Fellow. He became Special Advisor to Vice President Al Gore, briefing the Vice President on issues ranging from Africa to the global environment. He also served as a member of the National Security Council and was appointed by the Vice President to the position of Executive Secretary to the United States – South Africa Bi-National Commission focusing on business development and the proliferation of democracy in South Africa and establishing power and electricity in rural areas.

51. After leaving the White House, Mr. Thomas became a Legislative Assistant to United States Senator Dirk Kempthorne (R-Idaho). In that capacity, Mr. Thomas advised the Senator on armed services, international humanitarian assistance, and environmental and public works issues. In addition, Mr. Thomas drafted legislation on the implementation of U.S. forces in future United Nations peace keeping operations.

52. In 1999, Mr. Thomas became a consultant at McKinsey & Co. (“McKinsey”) in Houston, Texas. While at McKinsey, Mr. Thomas (i) helped developed a \$1 billion international liquefied natural gas business strategy for a major energy company; (ii) assisted in the development and marketing of a successful new product for a \$350 million consumer products company; (iii) formulated and assisted in the implementation of a \$200 million corporate

strategy for a large electric utility company facing a deregulated market; (iv) designed a \$15 million cost savings strategy for a construction and gas pipeline development entity; and (v) performed due diligence for a major venture capital firm that was engaged in the acquisition and development of companies operating in the multi-media production/distribution segment.

**B. Plaintiff Thomas' Employment With General Electric**

**1. GE Corporate Initiatives Group, Fairfield, Connecticut: 2001-2002**

53. In 2001, Mr. Thomas joined GE's Corporate Initiatives Group ("CIG") as a Manager in Fairfield, Connecticut. While at CIG, Mr. Thomas led a cross-functional team that created and successfully implemented software applications to accurately identify products and services to facilitate eSourcing, which resulted in multi-million dollar savings throughout GE.

54. While at CIG, Mr. Thomas became a founding member of the Corporate Crisis Management Team, which made recommendations to safeguard GE and its employees in the wake of the September 11, 2001 terrorist attacks, and served as a member of the Corporate Sourcing Advisory Board.

55. Plaintiff's efforts also involved developing a content management/supplier digitalization tool to enhance procurement operations within GE. He also provided strategic guidance and led remote teams to ensure quality and project implementation – thus establishing early on in his career at GE notable leadership skills.

**2. GE Transportation Systems, Erie, Pennsylvania: 2002-2004**

56. After CIG, Mr. Thomas joined GE Rail as a General Manager of Global Sourcing at GE Rail, which is the largest U.S.-based locomotive manufacturer. At GE Rail, he led a global team of over 200 employees responsible for almost \$2 billion in annual purchases worldwide.

57. As a result of his first-rate performance, GE Transportation achieved over \$41 million in cost savings and deflation (a record 32% incremental increase over the prior year) and reduced the number of sole/single source suppliers. Plaintiff also annually negotiated in excess of \$135 million in contracts for specific parts and sub-assemblies while ensuring the protection of GE intellectual property during increased globalization efforts.

58. Mr. Thomas managed strategic rethinking of sourcing operations to develop suppliers in low cost countries. He collaborated with manufacturing to reduce inventory, increase on-time delivery, improve quality, and capture greater warranty periods.

59. Plaintiff also created and led several management initiatives to include but not limited to “Sourcing IQ” – a major re-invigoration of Six Sigma processes and supplier negotiation skills throughout the global sourcing community.

60. Mr. Thomas’ success and talent caught the attention of senior management, including GE’s CEO and Chairman of the Board, Defendant Jeffrey Immelt, who recommended Mr. Thomas to head its divisional Aircraft subsidiary Company, GE Aviation Materials, LP (“GEAM”).

### **3. GE Aviation Materials, LP, Irving, Texas: 2004-Present**

61. Plaintiff holds the positions of President, Chairman & CEO of GE Aviation Materials, LP (“GEAM”) in Irving, Texas. GEAM is one of nine subsidiary “platform” companies of the parent GE Engine Services that concentrates on transportation issues concerning aircrafts.

62. GEAM is an almost \$200 million joint venture specializing in the purchase and sale of turbine engines, airframes, and refurbished spare parts manufactured by GE, CFM, Honeywell, Pratt & Whitney, IAE, and Rolls-Royce.

#### **4. GE's Corporate Objectives And Representations Made To Plaintiff**

63. Defendants offered Mr. Thomas the position of CEO at GEAM in early 2004 with specific directives. The President and CEO of GE Rail, Defendant Charlene Begley ("Begley"), told Mr. Thomas that growth is key at GE and that he must increase sales, cut costs and/or improve productivity.

64. Ms. Begley also told Mr. Thomas that if he succeeded as the CEO of GEAM and expanded GEAM's business, then Defendants would promote him after six to nine months from Manager to the Senior Executive Band level – a representation that turned out to be false.

65. William "Bill" Fitzgerald ("Fitzgerald"), formerly Mr. Thomas' direct manager at GE Rail, told Plaintiff that GEAM was almost everything a CEO could want – i.e., sales, sourcing, asset management, etc. Fitzgerald explained that GEAM had, in the past, issues with respect to meeting certain metrics, and added that Mr. Thomas was just the person needed to turn GEAM around.

66. Plaintiff was successful in turning GEAM around. The company reported a record 89% profit and 21% sales increase in 2004. And the trend has continued into 2005 under Mr. Thomas' leadership. GEAM's first quarter profits are up by 162%, and sales have skyrocketed by 35% over the first quarter in 2004.

#### **5. Discriminatory Pay And Perquisites**

67. Before accepting the position at GEAM, Mr. Thomas asked Defendant Dan Heintzelman ("Heintzelman"), the senior executive responsible for offering Plaintiff the position to head GEAM, whether GE was offering Mr. Thomas the best compensation numbers available for the new position. Heintzelman responded that the numbers were the best available.

68. In fact, Heintzelman's statement was false. Unknown to Mr. Thomas at the time, GEAM was paying a lower level white GEAM employee, William "Bill" Thompson ("Thompson"), 8% more than the salary offered to Mr. Thomas. Not only was Thompson at a lower employment "band" level than Plaintiff, but this individual would in fact be reporting to Mr. Thomas.

69. Heintzelman knew that the salary offered to Mr. Thomas was less than the amount paid to Plaintiff's predecessor, Don Schreiber ("Schreiber"). In addition, Defendants had paid and continued to pay for Schreiber's Arizona condominium, his automobile, and his country club membership, perks that Defendants never offered to Plaintiff.

## 6. Awards And Recognition

70. In May 2004, after Mr. Thomas had taken the helm at GEAM, Defendant Heintzelman informed Mr. Thomas that the Board of Directors was awarding Mr. Thomas a large stock grant of 2,567 shares as a result of his outstanding performance while General Manager at GE Rail. Heintzelman congratulated Mr. Thomas on his achievement, noting that Mr. Thomas received the largest incremental stock increase of anyone on Heintzelman's staff.

71. In June 2004, GE selected Plaintiff from hundreds of employees to receive one of GE's most prestigious awards, *The Lewis A. Latimer Award*. Mr. Thomas was invited to GE's corporate headquarters in Connecticut to receive the award personally from GE's top corporate officers and to attend a lunch with Lewis Latimer's granddaughter. The inscription on the award reads:

This award is in recognition of your **exemplary leadership skills**, technical mastery, and Six Sigma discipline used to secure a record \$41M in cost reduction and to achieve over 250% improvement in China annual receipts. (emphasis added)

72. GE's Chairman and CEO, Jeffrey Immelt, signed Mr. Thomas' Latimer Award personally.

### **7. Plaintiff Remedies A Racially Biased Bonus Scheme**

73. Soon after taking charge at GEAM, Mr. Thomas conducted a top-to-bottom assessment of GEAM's operations and capabilities. Among the major priorities needing correction was a biased and unfair bonus scheme that favored white employees and friends of GEAM's former CEO, Don Schreiber. Schreiber's *modus operandi* was to pay his favorite white employees' bonuses based not on their prior year's performance, but rather on their status as his friends and confidants.

74. Under Schreiber, in 2003 African-Americans comprised 4.8% of the workforce but received only 1.1% of the bonus pool. By contrast, white employees comprised 81.0% of the GEAM workforce, but were awarded approximately 89.8% of the bonus pool available. Additionally, Hispanics comprised 12.7% of the workforce yet received only 7.7% of the bonuses.

75. Finally, in 2003 males comprised 63.5% of GEAM's workforce and received 72.8% of the bonuses. By contrast, females comprised 36.5% of the workforce and received 27.2% of the bonuses.

76. After Mr. Thomas implemented a merit-based bonus system that rewarded employees based largely on their performance, the disparity between white and minority employees virtually disappeared. When bonuses were awarded for 2004, male employees comprised approximately 69.6% of GEAM's workforce, and received 68.8% of the total bonus money available. Mr. Thomas' non-prejudicial, merit-based bonus system resulted in minorities

and women receiving bonuses roughly equivalent to their employment representation at GEAM. Mr. Thomas' initiatives eliminated the compensation disparities between men and women.

77. Further, in 2004, Plaintiff's initiatives again markedly reduced the disparities between white employees and minority employees. Special arrangements that had existed between Mr. Thomas' predecessor, Schreiber, and white employees dealing with vacation, job attendance and other perks not offered to minority employees were drastically reduced and/or eliminated under Mr. Thomas' leadership.

78. Upon information and belief, Mr. Thomas' restructuring of the bonus system caused great concern among certain senior white managers at GEAM, particularly IT Leader Dan Lynch, Operations & Warehouse Manager Brad Herring, and the Vice President of Small Engine Sales, Robert "Bob" Schmalholtz, who for many years had grown accustomed to receiving higher bonuses than other, more deserving GEAM employees.

79. Before Mr. Thomas' new bonus structure was implemented, these white managers correctly suspected that a change in the bonus system would lower their take. Upon information and belief, these individuals began to spread falsehoods about Mr. Thomas and complained to senior management above him.

80. In May 2004, Mr. Thomas reported to his superior, Defendant Heintzelman, his plans for revamping GEAM, including (i) restructuring the inequitable bonus system; (ii) creating a quality, risk and assessment entity; (iii) improving communication and socialization system among GEAM employees; (iv) investigating expense account misuses; and (v) reducing excess/obsolescent inventory. Heintzelman responded to these plans by questioning the bonus restructuring idea and requiring that Mr. Thomas discuss his plans with Senior Human Resources Manager, Defendant Jack Ryan, before going forward.

**8. Senior GE Officers/Managers Improperly Interfere In Bonuses/Ratings Of White Managers; Decrease Bonuses For Minority Employees; And Frustrate Plaintiff's Investigation Of White Employee Accused Of Embezzlement**

81. After Mr. Thomas changed the bonus structure, Defendants Heintzelman and Ryan resisted a meritocratic system that resulted in white employees making less money than under the prior non-meritocratic system. When white employees Brad Herring (“Herring”), Dan Lynch (“Lynch”) and Bob Schmalholz circumvented Mr. Thomas’ leadership by complaining directly to HR Manager Jack Ryan, these white managers’ complaints received a favorable hearing.

82. In early 2005, Defendants Heintzelman and Ryan both interceded to increase the bonuses of two of these favored white male employees, Herring and Lynch, notwithstanding that under the new merit-based program, neither Herring nor Lynch deserved the higher bonuses. By contrast, GE insisted on lowering the bonus of the only other senior level African-American at GEAM, Terry Arnold (“Arnold”), and meticulously scrutinized the proposed bonus of the other minority member of senior management at GEAM, Jeana Quintana (“Quintana”).

**9. Illegal And Discriminatory Tactics To Which Mr. Thomas Objected**

83. In August 2004, Defendant Heintzelman suggested to Mr. Thomas and other senior business staff that GEAM attempt to engage in illegal anti-competitive actions designed to boost the parent company’s sales at the expense of GEAM’s performance. Heintzelman wanted GEAM to enter the aviation materials market in order to purchase and hold critical used material for the sole purpose of creating a scarcity and causing an increased demand for new GE spare parts, thereby driving up the price of new GE spare parts.

84. When Mr. Thomas objected to the seriously flawed and anti-competitive nature of Heintzelman's plan, Heintzleman interrupted him and directed him to devise a concrete plan to implement Heintzelman's strategy.

85. Mr. Thomas also objected to the scheme of Defendants Heintzelman and Ryan to force GEAM senior employee Barry McKemy ("McKemy") out of the company. Heintzelman told Mr. Thomas to talk to Ryan about how to take care of McKemy.

86. The Defendants' plan was to "load up" McKemy with increasingly difficult and unachievable tasks, forcing McKemy to quit. Mr. Thomas refused to comply with the scheme because he believed it was wrong to treat employees in such a manner and he believed such conduct would expose the company to a wrongful termination suit.

87. Defendant Ryan also interfered with Mr. Thomas' and Quintana's investigation of a white employee, Richard Francis, who allegedly embezzled thousands of dollars worth of IT equipment to bolster his fledgling home business.

88. In addition to equalizing the bonus plan, Mr. Thomas overhauled certain entrenched business practices at GEAM. Mr. Thomas eliminated the practice of his predecessor, Schreiber, of secretly permitting favored white employees to take extended vacations without repercussions.

89. Mr. Thomas also sought to foster GE values that place a premium on employees' integrity and to foster an atmosphere in which equal opportunity extends to all employees, including those who wish to join the GE team.

90. Additionally, Mr. Thomas instituted a more hospitable and engaging work environment at GEAM by holding firm-wide social events, giving quarterly awards based on

merit, and encouraging constructive suggestions from all employees, not just favored white employees.

**10. Senior Management Officials Above Mr. Thomas Act In Concert To Diminish Plaintiff's Successes At GEAM**

91. When four GEAM employees submitted their resignations in January 2005 in order to accept substantially more compensation from a competitor company of GEAM's, North Texas Engines ("NTE"), Defendants used this event as a pretext for questioning Mr. Thomas' leadership. Under Plaintiff's predecessor, Schreiber, GEAM had experienced two suicides and numerous, ongoing resignations without subjecting Schreiber to any repercussive investigations or inquiries. Neither Defendants Heintzleman nor Ryan ever physically visited GEAM to investigate the resignations or comfort grieving co-workers after the suicides.

92. Defendant Heintzleman sent his Senior Human Resources Manager, Defendant Ryan, to GEAM's headquarters to make false accusations and negatively influence GEAM's employees against Mr. Thomas.

93. Defendant Ryan descended on GEAM's headquarters, organizing group and individual sessions designed to extract negative comments about Mr. Thomas' leadership. Immediately before his resignation, William "Bill" Thompson ("Thompson") was approached by Defendant Ryan and urged to blame his departure on Mr. Thomas. Upon information and belief, Ryan told Thompson that if he agreed, he would be rewarded with Plaintiff-Thomas' job.

94. Thompson remonstrated, stating that he had been considering leaving GEAM for two years and finally decided to leave for a better opportunity. Thompson told Ryan in substance, "I'm not interested in stabbing [Plaintiff-]Thomas in the back." Defendant Ryan responded, "**We [GE] won't make it appear that way.**"

95. More than 88% of the employees responding to a “leadership” survey sent to GEAM’s employees either strongly agreed with, agreed with or were neutral towards Mr. Thomas’ leadership style.

96. Despite lacking any reliable evidence of poor performance by Mr. Thomas, either in his financial or management leadership at GEAM, Defendant Marc Chini (“Chini”) contacted Mr. Thomas in early February 2005 and told him that GE’s senior management had decided that Mr. Thomas had to go. Chini said in substance that: (a) Mr. Thomas’ incentive compensation would not be what he expected; (b) Mr. Thomas would not receive any executive stock options during the next issuance; (c) Mr. Thomas would not be promoted to SEB (Senior Executive Band) level; and (d) Mr. Thomas should take a severance package and begin looking for outside employment.

## **V. INDIVIDUAL LEGAL CLAIMS**

### **A. Race Discrimination: Unequal Pay, Denial Of Promotion And Retaliation**

97. The GE Defendants discriminated against Mr. Thomas based on his race in three ways.

98. First, Defendants discriminated against Mr. Thomas by failing to pay him a salary and bonus commensurate with his position as President, Chairman & CEO of a major company. Upon information and belief, Defendants (a) paid Mr. Thomas less salary and bonus than other comparable non-minority CEOs at GE; (b) paid Mr. Thomas 8% less than a white subordinate, Thompson, who *reported* to Mr. Thomas, and were also creating a package for Thompson that would further broaden the gap by 19%; and (c) paid Mr. Thomas less than his white predecessor at GEAM, Schreiber, who was demoted for malfeasance. Upon information and belief, even after his demotion, Schreiber still retained all the perks of his previous position, including the

Scottsdale, Arizona condominium, the automobile, and the Country Club membership. None of these perks were ever offered to Mr. Thomas.

99. Second, Defendants discriminated against Mr. Thomas by failing to promote him to higher level leadership positions.

100. Defendants had rewarded Schreiber during his tenure at GEAM despite his inferior performance, which was highlighted by poor productivity, the suicides of two employees under his watch, and the exodus of numerous employees (including five who left within days of each other to form a competing company).

101. Third, Defendants discriminated against Mr. Thomas by retaliating against him for: (a) changing the policies that allowed undeserving white employees to receive unfair bonuses and perks; (b) defending the reputation of another African-American employee; and (c) speaking out against the racial discrimination at GE with GE in-house counsel. GE informed Mr. Thomas that he would receive no promotion, no stock options, a *de minimis* bonus, and that he had no future with the Company. Defendants further retaliated against Mr. Thomas by ruining his reputation at GE and labeling Mr. Thomas as “Least Effective” after he complained about GE’s lack of equitable treatment towards minority employees.

102. Each of the individual Defendants and Defendant Compensation Committee Board Members, including, but not limited to, Defendants Jeffrey Immelt (CEO and Chairman of the Board), David Calhoun (President & CEO of GE Transportation) and Bill Conaty (the top-ranking Human Resources Manager at GE), were aware of, participated in, and/or approved the following discriminatory decisions: (a) not to award Mr. Thomas any stock options despite his excellent performance in 2004, and thereafter (b) to give Mr. Thomas a *de minimus* bonus despite the record profits and revenues he generated for GEAM in 2004, and thereafter (c) to

eliminate any salary increase for Mr. Thomas in 2005, and (d) not to promote Mr. Thomas to SEB.

103. Defendants treated Mr. Thomas differently from other similarly situated non-minority employees at GE. For example, he is paid less and receives fewer privileges, benefits and perks than similarly situated white male employees.

104. Upon information and belief, GE pays minority and woman executives less than comparably-situated white male employees.

**B. Breach Of Contract And Misrepresentation**

105. Defendants, in particular Defendant Dan Heintzelman (“Heintzelman”), Vice President of GEAM’s parent company, GE Engine Services, Inc. (“GEES”), breached their promise to pay Mr. Thomas the highest salary and bonus available in his position as President, Chairman & CEO. Although Heintzelman represented to Mr. Thomas that he would be paid the highest remuneration available for the leader of GEAM, in fact he knew that GE would be paying Plaintiff (a) 8% less than a white lower level employee, Thompson, who would report to Mr. Thomas, and (b) less than Plaintiff’s immediate predecessor, Schreiber.

**C. Tortious Interference With Contract And Retaliation Against Plaintiff In Violation Of Public Policy**

106. Mr. Thomas opposed Defendants’ attempts to: (i) engage in illegal anticompetitive actions designed to help GEES (GEAM’s parent company); (ii) engage in dishonest and discriminatory employment practices by “loading up” an elderly employee, Barry McKemy, with increasingly unrealistic tasks in order to force him out of the company; (iii) pay undeserving white managers, Brad Herring, Dan Lynch, and Bob Schmalholz, higher bonuses than warranted under GEAM’s new merits-based incentive program; (iv) change an Employee Management System evaluation (“EMS”) for an inferior-performing white employee, Dan

Lynch; (v) reduce a bonus award for another minority employee at GEAM, Terry Arnold; and (vi) conduct biased, secret investigations at GEAM designed by GE to create the appearance of a lack of confidence in Mr. Thomas.

107. Plaintiff's refusal to aid Defendants' discriminatory, unfair and/or potentially illegal practices did not please GE's senior management.

108. Defendants Heintzelman, Charlene Begley, David Calhoun, Jack Ryan, Marc Chini, and Bill Conaty targeted Mr. Thomas and tortiously interfered with his employment contract.

109. Defendants initiated a smear campaign disseminated among GEAM's employees that was intended to interfere with Mr. Thomas' position and stature as the leader of GEAM. Defendants spread false rumors about four former employees who had resigned from GEAM in early 2005, implying that these employees left GEAM because of Mr. Thomas' leadership. In fact, three of the four employees left to obtain more lucrative positions at a GEAM competitor while the fourth was induced to stay at GE with a huge salary and bonus increase. Defendants used the departure of these employees to malign Mr. Thomas and harm his reputation and integrity.

110. Individual Defendants Heintzelman, Begley, Calhoun, Ryan, Chini, and Conaty acted in concert to improperly influence GEAM employees' and GE senior management's reviews and opinions of Mr. Thomas in order to manufacture the appearance of "no-confidence" in Mr. Thomas' leadership. Defendants' aim was to create a pretextual reason for terminating or constructively terminating Mr. Thomas.

111. Defendant Ryan met both individually and as a group with Mr. Thomas' staff and employees in an attempt to extract false, misleading and negative comments about Mr. Thomas'

leadership.

112. When GEAM employees refused to denigrate Mr. Thomas, the individual Defendants, including Ryan, tried to instigate a rebellion against Mr. Thomas by continuing to interrogate employees and expressing their discontent with Mr. Thomas' leadership at GEAM. Specifically, they stated that Mr. Thomas was the reason that the four employees had tendered their resignations.

113. In contrast, Defendants did not attempt to undermine the leadership of Plaintiff's white predecessor, even though two of Schreiber's employees committed suicide during his tenure and numerous others resigned because of the climate of fear and discontent created by Schreiber.

114. Schreiber ran the operation like his own private fiefdom insulated from the policies and practices of GE, rewarding his favored employees and snubbing others. Yet after Mr. Thomas remedied Schreiber's abuses and violations, Mr. Thomas was spurned by Defendants, made a scapegoat for the independent resignation decisions of a few subordinates, and attacked as a deficient leader. These consequences all stemmed from racist attitudes that were approved and furthered by senior management GE Defendants.

115. Nearly 70% of GEAM employees surveyed strongly agreed with Mr. Thomas' leadership at GEAM, and only a small, disgruntled and underperforming cabal of white employees questioned his leadership. Yet Defendants, particularly the individual Defendants Heintzelman, Begley, Calhoun, Ryan, Chini, and Conaty, tortiously interfered with Mr. Thomas' contractual relationship as head of GEAM.

#### **D. Intentional Infliction Of Emotional Distress**

116. Defendants, in particular individual Defendants Heintzelman, Begley, Calhoun,

Ryan, Chini, and Conaty, targeted Mr. Thomas in a deliberate smear campaign by spreading false rumors about Mr. Thomas, which were intended to, and did, cause Plaintiff severe emotional distress, humiliation and embarrassment.

117. Defendants intentionally spread false rumors in an attempt to influence GEAM employees' opinions about Mr. Thomas in order to destroy Mr. Thomas' reputation and stature as the President, Chairman, and CEO of GEAM.

#### **E. Racially Hostile Environment**

118. Mr. Thomas received a racist welcome when he joined GEAM in 2004. Placed on Mr. Thomas' desk was a printout of a 2002 GE Powerpoint presentation used by his predecessor at GEAM, Schreiber. Part of the printout proclaimed: "*What we're NOT*" . . . "*Sanford & Sons,*" i.e., some second-hand junk-yard run by the archetypal comic black men.

119. Mr. Thomas was dubbed "intimidating" and "arrogant" after his ("black") picture and resume were distributed by Defendants' employees throughout GEAM before Mr. Thomas arrived on the premises. Upon information and belief, the circulation of Mr. Thomas' picture was a highly unusual practice.

120. At a golf outing, Schreiber had recently told the African-American HR leader, Terry Arnold ("Arnold"), that most people might wonder whether he [Arnold] was a caddy at the country club.

121. Additionally, Defendants created a hostile work environment for Mr. Thomas, resulting in Defendants, including the individual management Defendants and Defendant GE Compensation Committee, denying Mr. Thomas a salary increase, stock options, promotion and deserved bonus, thus effectively ending Plaintiff's career at GE.

## **VI. CLASS ACTION ALLEGATIONS**

122. Class Representative Marc Thomas and the class of GE managers and other professional level employees he seeks to represent have been subjected to a systemic pattern and practice of racial discrimination involving a battery of practices, which have had an unlawful disparate impact on them and their employment opportunities. Such racial discrimination includes (a) paying African-American managers less than their white counterparts, and (b) adhering to a policy and practice of restricting the promotion and advancement opportunities of African-American managers so that they remain in the lower classification and compensation levels.

123. GE in effect bars African-American managers from better and higher paying positions which have traditionally been held by white employees. The systemic means of accomplishing such racial stratification include, but are not limited to, GE's promotion, advancement, training, and performance evaluation policies, practices, and procedures.

124. GE's promotion, advancement, training, and performance evaluation policies, practices, and procedures incorporate the following racially discriminatory practices: (a) relying upon subjective judgments, procedures, and criteria which permit and encourage the incorporation of racial stereotypes and bias by GE's predominately white executive, managerial and supervisory staff in making promotion, training, performance evaluation, and compensation decisions; (b) refusing or failing to provide equal training opportunities to African-Americans; (c) refusing or failing to provide African-Americans with opportunities to demonstrate their qualifications for advancement; (d) refusing or failing to establish and/or follow policies, practices, procedures, or criteria that reduce or eliminate disparate impact and/or intentional bias or stereotypes; (e) disqualifying African-American employees for vacancies by unfairly

disciplining them; (f) discouraging applications and expressions of interest by African-Americans; and (g) subjecting African-Americans to a racially hostile work environment.

125. GE's promotion policies, practices, and procedures have had a disparate impact on the Class Representative and the members of the class. Such procedures are not valid, job-related, or justified by business necessity.

126. Defendants' compensation, promotion, training, performance evaluation, termination, and transfer policies, practices, and procedures are intended to have a disparate impact on the class representative and the class he seeks to represent. Such practices form a part of the Defendants' overall pattern and practice of keeping African-Americans in the lower classifications which have less desirable terms and conditions of employment.

127. Because of Defendants' systemic pattern and practice of racial discrimination, the Class Representative and class he seeks to represent have been adversely affected and have experienced harm, including the loss of compensation, wages, backpay, and employment benefits.

128. Class Representative Mr. Thomas and the class he represents have been subjected to a racially hostile work environment, which affects the terms and conditions of their employment. For example, white managers have used derogatory terms with respect to African-American employees, have described African-American employees, and African-Americans in general, in negative stereotypical terms, have made it clear that they favor white employees over African-American employees, and otherwise have created a working environment hostile to African-American employees. The GE Defendants have condoned similar words and actions by white employees.

129. African-American employees at GE have complained to their supervisors, including upper-level management, about the racially hostile work environment. GE managers have conducted inadequate and/or superficial investigations of these complaints and have failed to implement adequate procedures to monitor or alter the hostile working environment.

130. GE has failed to impose adequate discipline on managers and employees who violate the equal employment opportunity laws and has failed to create adequate incentives for its managerial and supervisory personnel to comply with such laws regarding the employment policies, practices, and procedures described above.

131. Class Representative and the class have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein, and this suit is their only means of securing adequate relief. Plaintiff is now suffering, and will continue to suffer, irreparable injury from GE's unlawful policies, practices, and procedures as set forth herein unless those policies, practices, and procedures are enjoined by this Court.

**A. General Facts Relevant To Class Claims And Class Definition**

132. Class Representative Marc Thomas seeks to maintain claims on his own behalf and on behalf of a class of current and former African-American managers at GE.

133. The class consists of all African-American managers who are, or have been, employed by GE and have experienced race discrimination at any time during the applicable liability period. Upon information and belief, there are thousands of such managers in the proposed class.

134. The class representative seeks to represent all of the African-American employees described above who have been subjected to one or more aspects of the systemic racial discrimination and racial harassment described in this Complaint, including, but not limited to:

discriminatory policies, practices, and procedures in pay; selection, promotion, and advancement; disparate and hostile working conditions, training and discipline; the failure to promulgate, maintain and enforce effective racial harassment and/or non-discrimination policies, practices and procedures; and unequal terms and conditions of employment. The systemic racial discrimination and racial harassment described in this Complaint has been, and is, continuing in nature.

**B. Efficiency Of Class Prosecution Of Common Claims**

135. Certification of a class of African-American managers and professional level employees similarly situated to the Class Representative, Marc Thomas, is the most efficient and economical means of resolving the questions of law and fact which are common to the claims of the Class Representative and the proposed class. The individual claims of the Class Representative require resolution of the common question of whether GE has engaged in a systemic pattern and/or practice of racial discrimination against African-American employees. Class Representative Thomas seeks remedies to eliminate the adverse effects of such discrimination in his own life, career and working conditions and in the lives, careers and working conditions of the proposed class members, and to prevent continued racial discrimination and/or racial harassment in the future. Mr. Thomas has standing to seek such relief because of the adverse effect that such discrimination and/or harassment has had on him individually and on African-Americans generally. In order to gain such relief for himself, as well as for the class members, Class Representative Thomas will first establish the existence of systemic racial discrimination as the premise for the relief he seeks. Without class certification, the same evidence and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations.

Certification of the proposed class of African-Americans who have been affected by these common questions of law and fact is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for the Class Representative, the proposed class, and the GE Defendants.

136. Class representative Marc Thomas' individual and class claims are premised upon the traditional bifurcated method of proof and trial for disparate impact and systemic disparate treatment claims of the type at issue in this case. Such a bifurcated method of proof and trial is the most efficient method of resolving such common issues.

**C. Numerosity And Impracticability Of Joinder**

137. The class which the Class Representative seeks to represent is too numerous to make joinder practicable. The proposed class consists of hundreds of current, former and future African-American managers during the liability period. GE's pattern and/or practice of race discrimination also makes joinder impracticable by discouraging African-Americans from applying for or pursuing promotional, training, or transfer opportunities, thereby making it impractical and inefficient to identify many members of the class prior to determination of the merits of GE's class-wide liability.

**D. Common Questions Of Law And Fact**

138. The prosecution of the claims of class representative Marc Thomas will require the adjudication of numerous questions of law and fact common to both his individual claims and those of the putative class he seeks to represent. The common questions of law include, *inter alia*, whether GE has engaged in unlawful, systemic race discrimination in its compensation, selection, promotion, advancement, transfer, training and discipline, policies, practices, and procedures, and in the general terms and conditions of work and employment;

whether GE is liable for a continuing systemic violation of Title VII, and/or § 1981 and/or other statutes; and a determination of the proper standards for proving a pattern or practice of discrimination by GE against its African-American managers and other professional level employees. The common questions of fact include, *inter alia*: whether GE has, through its policies, practices, and procedures: (a) compensated African-American managers less than similarly situated Caucasian white males through the use of salary and /or other perks; (b) precluded or delayed the selection and promotion of African-American managers into higher level jobs traditionally held by white employees; (c) discouraged African-Americans from seeking promotions and/or transfers into higher level jobs traditionally held by white employees; (d) prevented African-Americans from learning about or competing for opportunities in jobs traditionally held by white employees; (e) failed to train or offer training to African-Americans so they could compete for positions traditionally held by white employees; (f) subjected African-Americans to a racially hostile work environment; and (g) subjected African-Americans to disparate disciplinary policies, practices, and procedures, including terminations.

139. The employment policies, practices, and procedures to which the Class Representative and the class members are subjected are set at GE's corporate level and apply universally to all class members. These employment policies, practices and procedures are not unique or limited to any department; rather, they apply to all departments and, thus, affect the Class Representative and class members in the same ways no matter the plant, department, or position in which they work.

140. Throughout the liability period, a disproportionately large percentage of the managers, supervisors, executives, senior executives and officers at GE have been white.

141. Discrimination in selection, promotion and advancement occurs as a pattern and practice throughout the manager level of all departments of GE. Selection, promotion, and advancement opportunities are driven by personal familiarity, subjective decision-making, pre-selection and interaction between white executives, managers, supervisors, and subordinates rather than by merit or equality of opportunity. As a result, white employees have advanced and continue to advance more rapidly to better and higher paying jobs than do African-American employees.

142. GE's policies, practices, and procedures have had an adverse impact on African-American managers seeking selection for, or advancement to, better and higher paying positions. In general, the higher the level of the job classification, the lower the percentage of African-American employees holding it.

#### **E. Typicality Of Claims And Relief Sought**

143. The claims of Class Representative Thomas are typical of the claims of the class. The relief sought by the Class Representative for racial discrimination complained of herein is also typical of the relief which is sought on behalf of the class.

144. Like the members of the class, the Class Representative, Mr. Thomas, is an African-American manager who has worked at GE during the liability period.

145. Discrimination in selection, promotion, advancement, and training affects the compensation of the Class Representative and all the employee class members in the same ways.

146. Discrimination in discipline, including termination, occurs as a pattern and practice throughout all departments of GE. GE's predominantly white executives and other managers discipline African-American employees, including both the Class Representative and the class members, more frequently and severely than their white counterparts.

147. Discrimination in the form of a hostile work environment occurs as a pattern and practice throughout all levels and departments at GE and affects the Class Representative and the members of the class in the same ways. White supervisors have used derogatory language when speaking to and about African-American employees, have retaliated against African-American employees who have sought to enforce their rights, have made it clear in various ways that they favor white employees, and otherwise have created a working environment hostile to African-American employees. White managers and supervisors have also condoned hostile words and actions by white employees which add to the already racially hostile working environment.

148. GE has failed to create adequate incentives for its executives and managers to comply with equal employment opportunity laws regarding each of the employment policies, practices, and procedures referenced in this Complaint and has failed to discipline adequately its executives and managers and other employees when they violate the discrimination laws. These failures have affected the Class Representative and the class members in the same ways.

149. The relief necessary to remedy the claims of the Class Representative is exactly the same as that necessary to remedy the claims of the class members in this case. Class Representative Thomas seeks the following relief for his individual claims and for those of the members of the proposed class: (a) a declaratory judgment that GE has engaged in systemic racial discrimination against African-American managers by paying African-American managers less than their white counterparts, subjecting African-Americans to a racially hostile work environment, by limiting their ability to be promoted to better and higher paying positions, by limiting their employment opportunities to lower and less desirable classifications, by limiting their training and transfer opportunities, and by exposing them to less desirable terms and conditions of employment; (b) a permanent injunction against such continuing discriminatory

conduct; (c) injunctive relief which effects a restructuring of GE's promotion, transfer, training, performance evaluation, compensation, work environment, and discipline policies, practices, and procedures – so that African-American managers will be able to compete fairly in the future for promotions, transfers, and assignments to better and higher paying classifications with terms and conditions of employment traditionally enjoyed by white employees; (d) injunctive relief which effects a restructuring of the GE workforce so that African-American managers are promoted into higher and better paying classifications that they would have held in the absence of GE's past racial discrimination; (e) backpay, front pay, and other equitable remedies necessary to make the African-American employees whole from the Defendants' past discrimination; (f) punitive and nominal damages to prevent and deter GE from engaging in similar discriminatory practices in the future; (g) compensatory damages; and (h) attorneys' fees, costs and expenses.

#### **F. Adequacy Of Representation**

150. The Class Representative's interests are co-extensive with those of the members of the proposed class which he seeks to represent in this case. Class Representative Thomas seeks to remedy GE's discriminatory employment policies, practices, and procedures so that African-American managers will no longer be subjected to a racially hostile work environment, and will not be prevented from advancing into higher paying and more desirable higher GE "band level" positions. Mr. Thomas is willing and able to represent the proposed class fairly and vigorously as he pursues his individual claims in this action. Class Representative Thomas has retained counsel who are qualified, experienced, and able to conduct this litigation and to meet the time and fiscal demands required to litigate an employment discrimination class action of this size and complexity. The combined interests, experience, and resources of Mr. Thomas' counsel

to litigate competently the individual and class claims at issue in this case clearly satisfy the adequacy of representation requirement of Federal Rule of Civil Procedure 23(a)(4).

**G. Requirements Of Rule 23(b)(2)**

151. GE has acted on grounds generally applicable to the Class Representative and the class by adopting and following systemic policies, practices, and procedures which are racially discriminatory. Racial discrimination is GE's standard operating procedure rather than a sporadic occurrence. GE has refused to act on grounds generally applicable to the class by, *inter alia*: (a) failing to pay African-American managers on par with white managers; (b) refusing to adopt and apply selection, promotion, training, performance evaluation, compensation, and discipline policies, practices, and procedures which do not have a disparate impact on, or otherwise systemically discriminate against African-American managers; (b) refusing to provide equal terms and conditions of employment for African-Americans; and (c) refusing to provide a working environment which is free of racial harassment. GE's systemic discrimination and refusal to act on grounds that are not racially discriminatory have made appropriate the requested final injunctive and declaratory relief with respect to the class as a whole.

152. Injunctive and declaratory relief are the predominant relief sought in this case because they are the culmination of the proof of GE's individual and class-wide liability at the end of Stage I of a bifurcated trial and the essential predicate for the class representative Thomas' and the class members' entitlement to monetary and non-monetary remedies at Stage II of such trial. Declaratory and injunctive relief flow directly and automatically from proof of the common questions of law and fact regarding the existence of systemic racial discrimination against African-American employees at GE. Such relief is the factual and legal predicate for class representative's and the class members' entitlement to monetary and non-monetary

remedies for individual losses caused by, and for exemplary purposes necessitated by, such systematic discrimination.

**H. Requirements Of Rule 23(b)(3)**

153. The common issues of fact and law affecting the claims of Mr. Thomas and proposed class members, including, but not limited to, the common issues identified herein, predominate over any issues affecting only individual claims. These issues include whether GE has engaged in racial discrimination against African-American managers by denying them equal pay, promotion and advancement opportunities and whether GE has tolerated a culture of racism directed against such employees.

154. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class Representative and members of the proposed class.

155. The cost of proving GE's pattern and practice of discrimination makes it impracticable for the Class Representative and members of the proposed class to control the prosecution of their claims individually.

**CLASS COUNTS**

**COUNT I**  
**(Class Claims)**

**VIOLATION OF 42 U.S.C. § 1981**  
**(AGAINST ALL DEFENDANTS)**

156. Class Representative incorporates the preceding paragraphs as if fully set forth herein.

157. This Count is brought on behalf of Class Representative and members of the class.

158. Defendants have denied Class Representative and members of the class the same right to make and enforce contracts as enjoyed by white citizens employed by Defendants, including rights involving the making, performance, modification, and termination of contracts with Defendants and the enjoyment of all benefits, privileges, terms, and conditions of that relationship, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended.

159. In the employment practices described above, Defendants intentionally engaged in discriminatory practices with malice or with reckless indifference to the federally protected rights of Class Representative and the members of the class, entitling Class Representative and the members of the class to punitive damages.

160. By reason of the continuous nature of Defendants' discriminatory conduct, persistent throughout the employment of Class Representative and members of the class, Class Representative and the members of the class are entitled to application of the continuing violations doctrine to all violations alleged herein.

161. As a result of Defendants' conduct alleged in this complaint, Class Representative and the members of the class have suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, and other financial loss, as well as humiliation, embarrassment, emotional and physical distress, and mental anguish.

162. By reason of Defendants' discrimination, Class Representative and members of the class are entitled to all legal and equitable remedies available for violations of § 1981, as amended, including an award of punitive damages.

163. Attorneys' fees should be awarded under 42 U.S.C. § 1981, *et seq.*

**COUNT II**  
**(Class Claims)**

**RACIAL DISCRIMINATION IN VIOLATION OF TITLE VII  
OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED  
(AGAINST ALL DEFENDANTS)**

164. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

165. This Count is brought on behalf of Class Representative and all members of the class.

166. Defendants have discriminated against Class Representative and members of the class in violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, *et seq.*, as amended by the Civil Rights Act of 1991 (“Title VII”), by subjecting them to different treatment on the basis of their race. The members of the class have suffered both disparate impact and disparate treatment as a result of Defendants’ wrongful conduct.

167. In the employment practices described above, Defendants intentionally engaged in discriminatory practices with malice or with reckless indifference to the federally protected rights of Class Representative and the members of the class, entitling Class Representative and the members of the class to punitive damages.

168. By reason of the continuous nature of Defendants’ discriminatory conduct, persistent throughout the employment of Class Representative and the members of the class, Class Representative and the members of the class are entitled to application of the continuing violations doctrine to all violations alleged herein.

169. As a result of Defendants’ conduct alleged in this complaint, Class Representative and the members of the class have suffered and continue to suffer harm, including but not limited

to lost earnings, lost benefits, and other financial loss, as well as humiliation, embarrassment, emotional and physical distress, and mental anguish.

170. By reason of Defendants' discrimination, Class Representative and members of the class are entitled to all legal and equitable remedies available for violations of Title VII, including an award of punitive damages.

171. Attorneys' fees should be awarded under 42 U.S.C. § 2000e-5(k).

**COUNT III**  
**(Class Claims)**

**VIOLATION OF CONNECTICUT HUMAN RIGHTS ACT –  
CONN. GEN. STAT. 46a-60, et seq.  
DENIAL OF EQUAL PAY AND PROMOTION  
(AGAINST ALL DEFENDANTS)**

172. Class Representative realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

173. The Defendants have discriminated against Class Representative and the class of African-American managers by treating them differently from and less preferably than similarly situated non-African-American employees, and subjecting them to discriminatory compensation policies, discriminatory denials of promotion, differential treatment, unequal pay, disparate terms and conditions of employment, hostile work environment, and other forms of discrimination in violation of the Connecticut Human Rights Act.

174. Defendants' conduct has been intentional, deliberate, willful, reckless, and conducted in callous disregard of Class Representative's and the class' rights and has damaged Class Representative and the class.

175. Class Representative and the class are therefore entitled to all legal and equitable remedies, as well as punitive damages.

## **PRAYER FOR RELIEF ON CLASS CLAIMS**

WHEREFORE, Class Representative, on his own behalf and on behalf of the class, prays that this Court:

A. Certify the case as a class action maintainable under Federal Rules of Civil Procedure Rule 23(a), (b)(2) and/or (b)(3), on behalf of the proposed Plaintiff class, and designate Mr. Thomas as the representative of this class and his counsel of record as class counsel;

B. Declare and adjudge that Defendants' employment policies, practices and/or procedures challenged herein are illegal and in violation of the rights of Class Representative and members of the class under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 1981, as amended, and the Connecticut Human Rights Act, Conn. Gen Stat. 46a-60, *et seq.*;

C. Issue a permanent injunction against the Defendants and their partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any conduct violating the rights of the Class Representative, class members and those similarly situated as secured by 42 U.S.C. §§ 2000e *et seq.*, and order such injunctive relief as will prevent Defendants from continuing their discriminatory practices and protect others similarly situated.

D. Issue a permanent injunction against Defendants and their partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any further unlawful practices, policies, customs, usages, race discrimination or retaliation by the Defendants as set forth herein;

E. Order Defendants to initiate and implement programs that: (i) will provide equal employment opportunities for African-American employees; (ii) will grant zero tolerance to any

white employees who create racial hostility in the workplace; (iii) will remedy the effects of the Defendants' past and present unlawful employment policies, practices and/or procedures; and (iv) will eliminate the continuing effects of the discriminatory and retaliatory practices described above;

F. Order Defendants to initiate and implement systems of assigning, training, transferring, compensating and promoting African-American employees in a non-discriminatory manner;

G. Order Defendants to establish a task force on equality and fairness to determine the effectiveness of the programs described in E through F above, which would provide for: (i) monitoring, reporting, and retaining of jurisdiction to ensure equal employment opportunity; (ii) the assurance that injunctive relief is properly implemented; and (iii) a quarterly report setting forth information relevant to the determination of the effectiveness of the programs described in E through F above;

H. Order Defendants to adjust the wage rates and benefits for the Class Representative and the class members to the level that they would be enjoying but for the Defendants' discriminatory policies, practices and/or procedures;

I. Order Defendants to place or restore the Class Representative and the class members into those jobs they would now be occupying but for Defendants' discriminatory policies, practices and/or procedures;

J. Order that this Court retain jurisdiction of this action until such time as the Court is satisfied that the Defendants have remedied the practices complained of herein and is determined to be in full compliance with the law;

K. Award nominal, compensatory and punitive damages to Class Representative and the class members, in excess of \$450 million dollars;

L. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to the Class Representative and class members;

M. Award back pay, front pay, lost benefits, preferential rights to jobs and other damages for lost compensation and job benefits with pre-judgment and post-judgment interest suffered by the Class Representative and the class members to be determined at trial;

N. Order Defendants to make whole the Class Representative and class members by providing them with appropriate lost earnings and benefits, and other affirmative relief;

O. Award any other appropriate equitable relief to the Class Representative and proposed class members; and

P. Award any additional and further relief as this Court may deem just and proper.

## **INDIVIDUAL COUNTS**

### **COUNT I**

**(Individual Claim of Plaintiff-Thomas)**

**VIOLATION OF 42 U.S.C. §§ 2000e, et seq.  
DENIAL OF EQUAL PAY AND PROMOTION  
(AGAINST ALL DEFENDANTS)**

176. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

177. The Defendants have discriminated against Mr. Thomas by treating him differently from and less preferably than similarly situated non-African-American employees and by subjecting him to discriminatory denials of promotion, discriminatory compensation policies,

differential treatment, unequal pay, disparate terms and conditions of employment, hostile work environment, and other forms of discrimination in violation of Title VII.

178. Defendants' conduct has been intentional, deliberate, willful, reckless, and conducted in callous disregard of Plaintiff's rights.

179. Such conduct directly and proximately caused Mr. Thomas to be damaged and to suffer economic losses, mental and emotional harm, anguish, and humiliation. By reason of the foregoing, Plaintiff is entitled to all legal and equitable remedies available under Title VII.

**COUNT II**  
**(Individual Claim of Plaintiff-Thomas)**

**VIOLATION OF 42 U.S.C. §§ 2000e, et seq.**  
**RETALIATION**  
**(AGAINST ALL DEFENDANTS)**

180. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

181. The Defendants retaliated against Mr. Thomas as described in the Complaint, because he, *inter alia*:

- Attempted to equalize opportunities for minorities and women within GEAM;
- Complained about inequitable treatment of minorities and women within GEAM, including the racist treatment GE directed against him; and
- Maintained friendly working and cooperative relationships with other minority and female employees within GEAM.

182. After Mr. Thomas revealed to GE and its in-house Legal Department the specifics race discrimination at GE, in pay, promotion and treatment, the GE Defendants quickly retaliated against him in April 2005 with a biased end-of-the year performance review for 2004 that labeled him "Least Effective" – a moniker that effectively ends his career at the company.

183. In retaliation for these activities, Defendants have denied Plaintiff promotions, remuneration, and other emoluments of employment, and informed Mr. Thomas that his career at GE is effectively over.

184. The Defendants' actions were intentional, willful, malicious, reckless, and done with callous disregards of Plaintiff's rights. Plaintiff is, therefore, entitled to punitive damages.

185. By reason of the retaliation Plaintiff suffered at GEAM, Plaintiff is entitled to all legal and equitable remedies available under Title VII.

**COUNT III**  
**(Individual Claim of Mr. Thomas)**

**VIOLATION OF CONNECTICUT HUMAN RIGHTS ACT –**  
**CONN. GEN. STAT. 46a-60, *et seq.***  
**DENIAL OF EQUAL PAY AND PROMOTION**  
**(AGAINST ALL DEFENDANTS)**

186. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

187. The Defendants have discriminated against Mr. Thomas by treating him differently from and less preferably than similarly situated non-African-American employees, and subjecting him to discriminatory denials of promotion, discriminatory compensation policies, differential treatment, unequal pay, disparate terms and conditions of employment, hostile work environment, and other forms of discrimination in violation of the Connecticut Human Rights Act.

188. Defendants' conduct has been intentional, deliberate, willful, reckless, and conducted in callous disregard of Plaintiff's rights.

189. Such conduct directly and proximately caused Mr. Thomas to be damaged and to suffer economic losses, mental and emotional harm, anguish, and humiliation.

190. Plaintiff is therefore entitled to all legal and equitable remedies, as well as punitive damages.

**COUNT IV**  
**(Individual Claim of Plaintiff-Thomas)**

**VIOLATION OF CONNECTICUT HUMAN RIGHTS ACT –  
CONN. GEN. STAT. 46a-60, *et seq.*  
RETALIATION  
(AGAINST ALL DEFENDANTS)**

191. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

192. The Defendants retaliated against Mr. Thomas because he, *inter alia*:

- Attempted to equalize opportunities for minorities, and women within GEAM;
- Complained about inequitable treatment of minorities, and women within GEAM, including the racist treatment directed against him; and
- Maintained friendly working and cooperative relationships with other minority and female employees within GEAM.

193. After Mr. Thomas revealed to GE and its in-house Legal Department the specifics of race discrimination at GE, in pay, promotion and treatment, the GE defendants quickly retaliated against him in April 2005 with a biased end-of-the year performance review for 2004 that labeled him “Least Effective” – a label that effectively ends his career at the company.

194. In retaliation for these activities, Defendants have denied Plaintiff promotions, remuneration, and other emoluments of employment. Defendants have effectively destroyed Plaintiff’s career and reputation at GE.

195. The Defendants’ actions were intentional, willful, malicious, reckless, and done with callous disregards of Plaintiff’s rights. Plaintiff is, therefore, entitled to punitive damages.

196. By reason of the retaliation Plaintiff suffered at GEAM, Plaintiff is entitled to all appropriate legal and equitable remedies.

**COUNT V**  
**(Individual Claim of Plaintiff-Thomas)**

**EMPLOYMENT DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 1981**  
**(AGAINST ALL DEFENDANTS)**

197. Defendants have intentionally discriminated against Plaintiff by subjecting him to racial discrimination in employment on the basis of his race, African-American, including subjecting Plaintiff to discriminatory compensation, discriminatory denial of pay increase, discriminatory denial of promotions and subjecting Plaintiff to disparate terms and conditions of employment, a hostile work environment and other forms of discrimination, in violation of the § 1981.

198. Defendants have intentionally, deliberately, willfully, and callously disregarded the rights of Plaintiff.

199. By reason of Defendants' discrimination, Plaintiff has been damaged and is entitled to all legal and equitable remedies available under § 1981, including punitive damages.

**COUNT VI**  
**(Individual Claim of Plaintiff-Thomas)**

**BREACH OF IMPLIED CONTRACT OF EMPLOYMENT**  
**(AGAINST ALL GE DEFENDANTS)**

200. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

201. Plaintiff was induced to join Defendant GEAM as President, Chairman and CEO based on contractual promises by the corporate Defendants that Plaintiff would receive the

highest competitive salary, would be treated fairly and equitably without regard to race, and would be discharged only for cause.

202. These representations and contractual obligations were made orally by GEAM and GE top corporate personnel, including Defendants Heintzelman, Begley, and Chini.

203. These oral representations constitute an implied contract of employment between the corporate Defendants and Plaintiff.

204. Plaintiff has fulfilled all obligations under his contract of employment. Plaintiff has performed in an exemplary manner at GEAM, increasing profits, raising revenues and sales, and receiving awards for excellent performance.

205. The GE Defendants have breached their contract of employment with Plaintiff. Defendants have not treated Plaintiff equitably and have not provided the contracted-for salary, bonuses, pay raises and stock grants.

206. As a direct consequence of Defendants' misconduct and breach of contract, Plaintiff has suffered the loss of past and future wages and other consequential damages.

**COUNT VII**  
**(Individual Claim of Plaintiff-Thomas)**

**TORTIOUS INTERFERENCE WITH CONTRACT**  
**(AGAINST ALL CORPORATE AND INDIVIDUAL DEFENDANTS EXCEPT GEAM)**

207. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

208. A contractual and/or beneficial relationship existed between Mr. Thomas and GEAM.

209. The Defendants named in this Count intended to interfere with the contractual relationship. All of these Defendants acted to destroy Plaintiff's employment opportunities and Plaintiff's employment relationship with GEAM.

210. The above mentioned interference was unjustified, unprivileged and undertaken for an improper motive and purpose.

211. As a direct and proximate result of such interference, Plaintiff has suffered actual loss including diminution in earning capacity, reduced remuneration and denial of promotions.

212. As a result of Defendants' misconduct, Plaintiff is entitled to compensatory and punitive damages based on the conduct described in this count.

**COUNT VIII**  
**(Individual Claim of Plaintiff-Thomas)**

**INTENTIONAL MISREPRESENTATION**  
**(AGAINST ALL DEFENDANTS)**

213. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this complaint as though fully set forth herein.

214. Plaintiff was induced to join Defendant GEAM as President, Chairman and CEO based on promises by the corporate Defendants that Plaintiff would be given the highest competitive salary, would be treated fairly and equitably without regard to race, and would be discharged only for cause.

215. These representations were made orally by GEAM and GE top corporate personnel, including Dan Heintzleman and Charlene Begley, and Mark Chini.

216. These representations were false and Defendants knew them to be false. Defendants had no intention of paying Mr. Thomas top dollar, giving him fair promotional opportunities, and treating him fairly.

217. Plaintiff reasonably relied on these false representations and has sustained damages.

218. Plaintiff is entitled to compensatory and punitive damages.

**COUNT IX**  
**(Individual Claim of Plaintiff-Thomas)**

**NEGLIGENT MISREPRESENTATION**  
**(AGAINST ALL DEFENDANTS)**

219. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

220. Plaintiff was induced to join Defendant GEAM as President, Chairman and CEO based on promises by the corporate Defendants that Plaintiff would be given the highest competitive salary, would be treated fairly and equitably without regard to race, and would be discharged only for cause.

221. These representations were made orally by GE top executives, including Defendants Heintzleman, Begley, and Chini.

222. These representations were false, and Defendants failed to use due care in making such representations.

223. Plaintiff reasonably relied on these negligent representations and suffered damages.

**COUNT X**  
**(Individual Claim of Plaintiff - Thomas)**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

224. Plaintiff realleges and incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth herein.

225. The actions of Defendants described above are outrageous and surpass the bounds of all human decency.

226. Plaintiff has been subjected to a campaign to destroy his professional prospects within GEAM and GE as well as his employment prospects in other companies.

227. Defendants acted deliberately, maliciously, and wantonly, and in callous disregard of Plaintiff's rights.

228. Plaintiff has suffered severe emotional distress as a result as well as additional monetary damages, and is entitled to both compensatory and punitive damages.

**COUNT XI**  
**(Individual Claim of Plaintiff-Thomas)**

**NEGLIGENT INFLECTION OF MENTAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

229. Plaintiff realleges and incorporates by reference each and every allegation contained in the earlier paragraphs of this Complaint as though fully set forth herein.

230. By reasons of the activities described in this complaint, Defendants have negligently inflicted severe emotional distress on Mr. Thomas.

231. Defendants have informed Mr. Thomas that despite his superior record at GEAM, of shepherding GEAM to record growth and profits, his career with GE is essentially finished and that he should look for other employment.

232. Defendants have engaged in an organized campaign to destroy Plaintiff's professional life as a GEAM and GE executive.

233. This misconduct was carried out negligently and with lack of due care.

234. Plaintiff has suffered emotional distress so severe that it is likely lead to illness or bodily harm. As a result, Plaintiff is entitled to compensatory damages.

**PRAYER FOR RELIEF ON INDIVIDUAL CLAIMS**

WHEREFORE, Plaintiff MARCEL “MARC” T. THOMAS prays that this Court:

A. Award Plaintiff all compensatory and punitive damages allowed under 42 U.S.C. §§ 2000e, *et seq.* – Title VII – as set forth in Counts I and II;

B. Award Plaintiff all compensatory and punitive damages allowed under the Connecticut Human Rights Act – Conn. Gen. Stat. 46a-60, *et seq.* – as set forth in Counts III and IV;

C. Award Plaintiff all compensatory damages and punitive allowed under 42 U.S.C. § 1981, as amended – as set forth in Count V;

D. Award Plaintiff all compensatory damages allowed as a result of Defendants’ Breach of Implied Contract – as set forth in Count VI;

E. Award Plaintiff all compensatory damages and punitive damages allowed as a result of Defendants’ Tortious Interference with Contract – as set forth in Count VII;

F. Award Plaintiff all compensatory and punitive damages allowed as a result of Defendants’ Intentional Misrepresentation – as set forth in Count VIII.

G. Award Plaintiff all compensatory damages allowed as a result of Defendants’ Negligent Misrepresentation – as set forth in Count IX.

H. Award Plaintiff all compensatory damages and punitive damages allowed as a result of Defendants’ Intentional Infliction of Emotional Distress – as set forth in Count X;

I. Award Plaintiff all compensatory damages allowed as a result of Defendants’ Negligent Infliction of Emotional Distress – as set forth in Count XI;

J. Award plaintiffs the costs and disbursements of this action, including attorneys’ fees, experts’ fees, interest, and other expenses; and

K. Grant such other, further, and different relief as this court deems just and proper.

Dated: May 17, 2005

Respectfully submitted,

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*Lead Counsel for Plaintiff Marc T. Thomas  
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-and-

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