

1. This action involves systematic racial discrimination by Dunkin' Donuts against its own franchisees, specifically those who are African American women in violation of 42 U.S.C. §1981 and 42 U.S.C. §1982.

2. Dunkin' Donuts knowingly discriminates against African American women who are in protected classes under federal law, and who invest in Dunkin's franchise system, only to have Dunkin' discriminate against them, treat them unfairly and take adverse action against them based solely on their ethnicity, race and gender.

3. Dunkin', upon information and belief, does not sell single locations but rather requires the purchase of a Strategic Development Agreement or "SDA" to develop three or more Dunkin' stores.

4. Plaintiff Nance Pretto is a female of African American descent, who is a Dunkin' Donut franchisee and has had her entrepreneur hopes of developing multiple Dunkin' stores thwarted by Dunkin' discriminatory policies.

5. Upon information and belief, Dunkin' ***does not have any*** African American female multi-unit franchisees, in Maryland, New York, New Jersey, Connecticut and Rhode Island.

6. Dunkin's refusal to give the African American women the same opportunities available to white or male franchise developers in the North Eastern portion of the United States constitutes improper racial steering in violation of Federal Civil Rights laws.

7. Dunkin's discriminatory actions with respect to Nance Pretto violated §1981 and §1982 of the United States Civil Rights Act (42 U.S.C. §1981 and 42 U.S.C. §1982).

8. As more fully set forth herein Nance Pretto, as an African American is being deprived of her equal rights under both federal and state law.

9. Economic empowerment is the pathway to equality and barriers to obtaining equal franchise opportunities are an incarnation of yesterday's discriminatory policies in employment, housing and education.

10. As far as African American women are concerned, Dunkin's slogan should be "Dunkin' Runs on Discrimination" rather than "America Runs on Dunkin'".

THE PARTIES

11. Plaintiff Nance Pretto is a resident of Chesapeake Beach Maryland and a Dunkin' Donuts franchisee in Lusby, Maryland.

12. Dunkin' Donuts is a Delaware corporation, with corporate headquarters located in Massachusetts that is duly authorized to conduct business in the New Jersey and New York. Dunkin' Donuts offers Strategic Development Agreements (SDA's) to establish franchise multiple locations to develop and operate Dunkin' Donuts shops.

JURISDICTION AND VENUE

13. This Court has jurisdiction under 28 U.S.C. §1331, and 28 U.S.C. §1343.

14. Venue is proper in this District under 28 U.S.C. §1391.

DUNKIN'S DISCRIMINATION AGAINST NANCE PRETTO and ALL OTHER AFRICAN AMERICAN WOMEN

15. Dunkin's refusal to give Plaintiff Nance Pretto the same franchise opportunities made available to other franchise developers constitutes improper and illegal discrimination in violation of the 42 U.S.C. §1981 and §42 U.S.C. §1982.

16. Upon information and belief, of the over 7161 Dunkin' franchises, less than five (if that many) were at one time owned by African American women but now the sole African American female remaining is Plaintiff Nance Pretto.

17. Dunkin's improper actions also are contrary to the minority franchise inclusion programs as established by both the MinorityFran Committee of the International Franchise Association and the Multicultural Foodservice & Hospitality Alliance – organizations in which Dunkin' *is ironically a member*. Thus, Dunkin's conduct blatantly contravenes the established protocol of the franchise community to provide equal opportunities to all prospective and current franchisees.

Plaintiff Pretto's Claims of Discrimination

18. Nance Pretto purchased a Dunkin' SDA (Strategic Development Agreement) in 2004 to open three (3) Dunkin' locations in Maryland.

19. An SDA is a multi-unit franchise development agreement in which Dunkin' grants the right to open multiple Dunkin' franchised locations within a designated geographic area.

20. Nance opened her only store in 2006, pursuant to a three-store SDA that was entered in with Dunkin' in 2004.

21. After opening the initial location, Nance from 2006 to 2015 sought to open other store locations, all without success as Dunkin' improperly rejected every site she suggested and/or failed to provide her with any assistance to locate suitable sites.

22. The economics of owning Dunkin' franchises is to have at least three locations so that overhead costs can be absorbed by the multiple locations and yield a profit to the franchise owners.

23. To impede the ability of a franchisee to reach the minimum three location number is, upon information and belief, relegating the franchisee to, at most, barely profitable conditions which is the reason most male Caucasian and Asian franchisees own more than three locations.

24. Nance expended significant time and resources to find a second location from 2006 to 2015 but she was falsely told that **the thirty-two (32) sites she located and submitted to Dunkin' were "unsuitable"** for various unfounded/bogus and discriminatory reasons.

25. Further, despite Dunkin's representations to Nance that it would assist her in finding other locations - - in accordance with Dunkin's obligations under the SDA neither Dunkin', nor its representatives, assisted Nance to find any other viable expansion location in her designated SDA territory and her growth strategy was totally thwarted.

26. Dunkin' has an established pattern and history of preventing African American franchisees from expanding. This, in turn, makes it extremely difficult for both female (and male) African American franchisees to become as profitable as are other Caucasian and Asian franchisees.

27. Dunkin's discriminatory practice systematically forces African American female franchisees out of the system -- despite all the time, money and effort they commit to the business. This practice has been utilized by Dunkin' on four (4) out of its only five (5) female African American franchisees, leaving Plaintiff as the only African American female remaining in the Dunkin' system.

28. Since its opening, Nance Pretto's Dunkin' Donuts location has been well received by her community and was officially recognized by Dunkin' as a network with the "most improved sales" in her region with a franchisee rating that "meets and/or exceeds brand standards".

29. The instant action recognizes that the Parties dispute whether Plaintiff's execution in April 2015 of a certain coerced agreement with Dunkin' eliminated Plaintiff's contractual SDA right to expand¹.

¹ The provisions of the coerced April 2015 "Termination of Store Development Agreement and Release" is subject to an arbitration provision in the 2011 Dunkin SDA and, in all events, is irrelevant to the action herein for a continuation of Dunkin discrimination **after** April 2015 in violation of 42 U.S.C. §1981 and 42 U.S.C. §1982.

30. However, it is Dunkin's continued discriminatory action *since* 2015, in violation of 42 U.S.C. §1981 and 42 U.S.C. §1982 which has impacted and continues to impact Plaintiff and all other African American franchisees that is the conduct sought to be determined and rectified by this Action.

The Economic Impact of Dunkin' Discrimination on Minority Business Enterprises

31. The impact of Dunkin's discriminatory practices reaches well beyond the effects on Plaintiff Nance Pretto.

32. A lack of solid minority business enterprises (MBEs) in an African-American community can have significant and detrimental effects on that community as a whole. From a macro-economic perspective, MBEs "have a total economic impact of over \$401 billion in output that results in creation and/or preservation of 2.2 million jobs held by persons" directly or indirectly employed by MBE's. Additionally, MBEs account for nearly \$49 billion in local, state, and federal tax revenues².

33. When considering the economic impact of minority business enterprises on a community the economic impact affects the community in three ways:

- i) **Direct Effects:** These are revenues which are directly attributable through the operations of an MBE. For example, if a franchise generates \$2 million in annual sales revenue, that would be considered that franchise's direct contribution to the overall local economy. MBEs contribute approximately \$140 billion in direct sales of goods and services to the U.S. economy.

² *Economic Impact Report: The Effects of NMSDC Certified Minority Business Enterprises on the U.S. Economy*, by Scott A. Vowels, Ph.D., The National Minority Supplier Development Council, September 2015.

Over 710,000 Americans are directly employed by these MBEs, generating \$53 billion in salaries to their employees.

- ii) **Indirect Effects:** These relate to the business-to-business transactions which take place in the operation of any enterprise. For example, a DD franchise which purchases cleaning products from a local vendor adds to the local economy through their purchases. In turn, the vendor is able to provide employment and salaries to local residents. **MBEs contribute approximately \$116 billion in indirect economic impact to the U.S. economy.**
- iii) **Induced Effects:** The take-home earnings of individuals who are employed at any place of business provide an induced effect on the local economy. This serves as a “multiplier effect” in a given community: Local residents spending their earnings on other local business have a reverberating and cyclical impact on the economic health in a given area. **MBEs contribute approximately \$145 billion in induced economic impact to the U.S. economy.**

34. By thwarting the efforts of Nance Pretto to establish additional outlets, Dunkin’ restricted the potential economic stimulus into areas where African-Americans – among others – seek employment. In turn, these areas are denied the opportunity to enhance their economic well-being. One Dunkin’ store – by itself – will have a limited *direct* impact on an area. However, *one outlet also has an exponential and long-term benefits to a local community.*

COUNT I

CIVIL RIGHTS VIOLATION of 42 U.S.C. §1982

35. Plaintiff repeats every allegation contained in the foregoing paragraphs of this Complaint with the same force and effect as though fully set forth at length herein.

36. 42 U.S.C. §1982 provides for “equal rights under the law” in connection with contract and property transaction and prohibits racial discrimination.

37. Despite operating a profitable location, Nance Pretto’s request to open additional locations was improperly rejected in violation of 42 U.S.C. §1982.

38. Through today, Dunkin’ refuses to offer Nance Pretto any additional locations, including non-traditional kiosk locations which she has requested, for the sole reason that she is an African American female.

39. Based upon these discriminatory business practices, Dunkin’ has violated 42 U.S.C. §1982.

40. As a result of Dunkin’s discriminatory actions, Plaintiff Nance Pretto has suffered both monetary and emotional damages

COUNT II

DISCRIMINATION IN VIOLATION OF 42 USC§1981

41. Plaintiff repeats every allegation contained in the foregoing paragraphs of this Complaint with the same force and effect as though fully set forth at length herein.

42. Despite operating a profitable location, Nance Pretto’s request to open additional locations was improperly rejected in violation of 42 U.S.C. §1981.

43. Through today, Dunkin’ refuses to offer Nance Pretto any additional locations, including non-traditional kiosk locations which she has requested, for the sole reason that she is

an African American female.

44. Based upon these discriminatory business practices, Dunkin' has violated 42 U.S.C. §1981.

45. As a result of Dunkin's discriminatory actions, Plaintiff Nance Pretto has suffered both monetary and emotional damages, and attorneys fees.

PRAYER FOR RELIEF

Plaintiff seeks both equitable relief and money damages as follows:

- a. Declaring and Adjudging that Defendants have violated 42 U.S.C. § 1982 and 42 U.S.C. §1981.
- b. Enjoining Defendants from continuing its discriminatory policies against African American women (and men), both existing and prospective franchisees and requiring Defendants to immediately implement a program of minority incentives to encourage investment by African American women and other minority franchisees
- c. Requiring Defendants to implement a "Remedial Damages" program or programs to foster and assist African American female franchise ownership in economically advantageous areas, which would be monitored for compliance and efficiency by an appropriate Human Rights agency or company designated by the Court, the cost of which will be borne exclusively by Defendants.
- d. Compensatory Damages;
- e. Damages for emotional pain and suffering in accordance with 42 U.S.C. § 1982 and 42 U.S.C. §1981;
- f. Consequential Damages;

- g. Punitive Damages;
- h. Attorney's fees and Costs; and
- i. Any other relief this Court deems equitable and just.

Dated: September 25, 2017

Respectfully submitted,

MCCORMICK LAW FIRM, LLC

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DEMAND FOR A JURY TRIAL

Plaintiff demands a trial by jury as to all issues raised by this pleading.