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PRITI SHETTY, AMY PRETTO,
and REGGIE PRETTO,

Plaintiffs,

vs.

DUNKIN'DONUTS FRANCHISED
RESTAURANTS, LLC, a Delaware Limited
Liability Company, BASKIN-ROBBINS
FRANCHISED SHOPS, LLC, a Delaware
Limited Liability Company and
WAYNE MILLER, individually,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

DOCKET NO. MON-L-3362-12

**AMENDED COMPLAINT AND
JURY DEMAND**

Plaintiffs Priti Shetty (hereinafter "Priti Shetty" or "Priti"), Amy Pretto and Reggie Pretto (collectively "Plaintiffs"), by and through their attorneys, Marks & Klein, LLP, set forth the following Amended Complaint and allegations against Defendants Dunkin Donuts Franchised Restaurants, LLC, a Delaware Limited Liability Company, Baskin-Robbins Franchised Shops, LLC a Delaware Limited Liability Company (hereinafter collectively referred to as "Dunkin") and Wayne Miller.

NATURE OF THE ACTION

1. This action involves systematic racial discrimination by Dunkin' Donuts against its own franchisees, particularly those who are Indian women of color and African Americans.
2. Dunkin' Donuts knowingly discriminates against Indian women of color and African Americans, all of whom are in protected classes under federal and New Jersey State law,

by inducing them to invest their life savings to invest in a Dunkin franchise, 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 Priti Shetty is a female of Indian descent, who pursued her entrepreneur hopes of developing three Dunkin’ stores, only to have her best efforts thwarted by Dunkin’ and its representatives.

5. During the course of her business relationship with Dunkin, Priti was personally victimized by, Dunkin’s discriminatory policies and harassment at the hands of Dunkin’s operations managers, which conduct is typical of Dunkin’s discrimination against not only Indian females but against all women of color.

6. Upon information and belief, Dunkin does not have any Asian Indian American women of color multi-unit franchisees, in New Jersey, New York, Connecticut and Rhode Island.

7. Plaintiffs Amy Pretto and Reggie Pretto, who are African American, invested their time, money and significant resources into the development of three less desirable Dunkin’ locations after having been illegally “steered” by Dunkin away from their home New York/New Jersey area to open stores in less economically favorable areas in Maryland, which stores ultimately failed financially.

8. As then New York residents, Amy and Reggie Pretto (collectively the “Prettos”) wanted to open and develop Dunkin locations in the Greater New York area.

9. Dunkin representatives, however, lied to the Prettos and falsely indicated that no SDAs were available in the New York/New Jersey regional area.

10. In making these false representations regarding the unavailability of such locations, Dunkin deprived the Prettos the right to purchase SDAs in the same economically advantageous New York/New Jersey regional area and in which white and other franchise developers were being given SDAs.

11. Instead, the Prettos were “steered” to economically disadvantaged areas outside the New York, New Jersey, Connecticut and Rhode Island region on the false basis that multiple store development opportunities did not exist in their New Jersey/New York home region.

12. Upon further information and belief, Dunkin ***does not have any*** African American multi-unit franchisees, female or male, in New Jersey, Connecticut and/or Rhode Island.

13. Dunkin’s failure and/or refusal to give the Prettos the same opportunities available to white/Caucasian or male franchise developers in the New York regional area constitutes improper racial steering in violation of both Federal Civil Rights and New Jersey State anti-discrimination laws.

14. Dunkin’s discriminatory actions in denying the Prettos the same opportunities that it was allowing non-African Americans to develop locations, were based upon Dunkin’s misguided and discriminatory strategy of steering African Americans ***away from*** economically advantageous locations in the tri-state region and ***to marginal minority locations*** outside of the New York/New Jersey area.

15. Upon information and belief, of the few African American multi-unit franchisees in New York State, the stores are overwhelmingly located in economically disadvantaged or marginal areas.

16. Upon further information and belief, Dunkin has similarly discriminated against other African Americans either in terms of initially locating them in marginal locations, or not permitting them to expand in order to achieve overhead cost savings as Dunkin routinely does with non-African American franchisees.

17. Dunkin continues to so discriminate against African American four (4) years after its then CEO, John Luther was advised in writing of Dunkin's discriminatory practices (See copy of 2008 letter to John Luther attached hereto as **Exhibit A**).

18. Dunkin's improper steering actions with respect to the Prettos violated §1981 of the United States Civil Rights Act (42 U.S.C.) and the New Jersey Law Against Discrimination (N.J.S.A. 10-5-1 *et. seq.*) and Article Art. I, §11 which prohibit discrimination in commercial transactions.

19. As set more fully set forth herein Priti Shetty, as an Indian American woman of color, and all of the African American Plaintiffs herein were deprived of their equal rights under both federal and state law.

20. Entrepreneurial discrimination is today's version of "separate but equal" as economic empowerment is the pathway to equality.

21. Barriers to obtaining equal franchise opportunities are an incarnation of yesterday's discriminatory policies in employment, housing and education.

22. As far as Indian American women and African Americans, female or male, are concerned, Dunkin's slogan should be "Dunkin Runs on Discrimination" rather than "American Runs on Dunkin".

THE PARTIES

23. Plaintiff Priti Shetty is a former franchisee of Defendants Dunkin and resides in

Montville, New Jersey.

24. Plaintiffs Amy Pretto and Reggie Pretto are former Dunkin franchisees and reside in Montclair, New Jersey although she and her husband were New York residents residing in Croton-On-Hudson, New York at the time the wrongful acts against them took place.

25. 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.

26. Upon information and belief, Wayne Miller is a resident of New Jersey

JURISDICTION AND VENUE

27. Venue is proper as Plaintiffs Priti Shetty, Reggie Pretto and Amy Pretto are residents of the state of New Jersey and Defendants regularly do business and operate franchises in New Jersey.

DUNKIN'S DISCRIMINATION AGAINST INDIAN WOMEN OF COLOR AND AFRICAN AMERICANS

28. Dunkin's refusal to give the Plaintiffs the same franchise opportunities made available to other franchise developers constitutes improper and illegal racial steering, harassment and discrimination in violation of both Federal Civil Rights and New Jersey and anti-discrimination laws.

29. Dunkin's specific discriminatory action against the African American Plaintiffs was to deny them the same access to economically advantageous areas that it was allowing non-African Americans to develop.

30. Dunkin's discrimination was based upon its misguided strategy of steering African Americans into less economically advantageous areas that are predominately populated by minority individuals and by refusing to permit African Americans to operate locations in prime, economically advantageous areas.

31. Upon information and belief, Dunkin does not have any African American multi-unit franchisees, female or male, in New Jersey, Connecticut and Rhode Island).

32. Dunkin's unfair profiling and marginalization of its African American franchisees is further evidenced by the fact that, of the few African American multi-unit franchisees located in the State of New York, the overwhelming number of these individuals are, upon information and belief, steered to develop stores in economically disadvantaged minority areas.

33. Dunkin's conduct with respect to the States of New Jersey, Connecticut and Rhode Island is analogous to the plight of African American individuals in 1946, that is, they are allowed to buy tickets to major league baseball events are not permitted to play the game. So too, in the instant matter, Dunkin encourages African Americans to buy its products but does not permit them to own franchises in those economically advantageous states of New Jersey, Connecticut and Rhode Island.

34. Upon further information and belief, of the over 6990 Dunkin franchises, less than 50 are owned by African Americans and of those, the majority are located in economically less advantageous minority areas.

35. Dunkin's improper steering 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.

A. Plaintiff Shetty's Claims of Discrimination

1. Dunkin's Bad Faith Refusal to Permit Shetty to Open Third Store Location

36. As a New Jersey resident, Priti and two male partners, one of whom was strictly an investor and the other who was to be a co-manager with Priti, wanted to open three Dunkin locations in New Jersey.

37. Priti and her partners opened two Dunkin stores first in Wantage in 2004 and then in Oak Ridge in 2005, New Jersey, pursuant to a three-store Strategic Development Agreement (SDA) that was entered in with Dunkin in 2003.

38. The SDA is a multi-unit franchise development agreement in which Dunkin grants the right to open a number of Dunkin franchised locations within a designated geographic area.

39. After opening the initial two locations, Priti sought to open a third location in Stockholm, New Jersey in 2007 after her managing partner left the business because of stress related issues.

40. 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.

41. 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 franchisees own more than three locations.

42. After expending significant time and resources in 2008 to finding and opening a third franchise location in Stockholm, New Jersey, Priti was falsely told that the third location she chose was unsuitable because a "drive-thru" window could not be installed.

43. Despite Dunkin's agents' representations to Priti that it would assist her in finding a suitable third location—in accordance with Dunkin's obligations under the SDA - neither Dunkin nor its representatives, including but not limited to Defendant Miller, actually assisted Priti to find, nor did they suggest the availability of, a viable, alternative location in her designated territory under the SDA, and her growth strategy was forced to flounder.

44. Disturbingly, *the very same location* that Dunkin', by and through its authorized representatives, refused to allow Plaintiff Shetty to open, based upon its purported unsuitability, was later approved for a male franchisee several months later – *without a “drive-thru” window*, which was the basis for which Dunkin' rejected Priti Shetty's choice of this particular location.

2. Dunkin Representatives' Verbal Harassment and Unfair Treatment of Priti Shetty

45. Despite fulfilling all system requirements such as training employees, keeping up store cleanliness, and properly observing Dunkin's operational standards, Priti was repeatedly harassed by Dunkin's Operational Manager Wayne Miller (“Miller”). At all relevant times, Miller was acting as an authorized representative of Dunkin' in his regular course of duty.

46. Upon information and belief, all of the harassment, and non-cooperation to find a third location, occurred after Priti's male operating partner left the business and while she continued to manage both the Wantage and Oak Ridge stores.

47. Miller's periodic, and excessive, inspections of both the Wantage and Oak Ridge locations were fraught with tension and stress for Priti.

48. During a number of such inspections, discriminatory anti-female remarks were made to Priti by another Dunkin manager and were witnessed by Priti's store manager and other employees.

49. Miller would typically make derogatory remarks to Shetty such as “this business is not for [you]” and would verbally berate Priti’s employees, most of whom were Indian.

50. Miller stated to Priti on more than one occasion, that since she was a woman and a mother of a small child there is no way she could competently handle the store’s operation.

51. On one particular occasion, despite being advised that Priti was unavailable to come to the location for an inspection because her daughter was sick (*the store at the time was being supervised by a manager*), Miller threatened to “fail” the location unless Shetty physically came to the Oak Ridge location to participate.

52. Miller’s actions were clearly in bad faith and aimed at harassing and punishing Priti, since it was (and is) at all relevant times established Dunkin’ protocol that a store owner need not be present for every store inspection.

53. Despite properly handling numerous store inspections and promptly curing any documented issue, Miller insisted that Priti had “a long way to go to manage an expandable network.” This conversation occurred after Dunkin had approved and Shetty had already opened and operated her first store in December 2004 and her second store one year later in June 2005.

54. On another occasion Miller threatened Priti saying that if he chose to he could create many problems for her store “from nothing.”

55. Miller seemed particularly irked by the fact that Priti, an accomplished business analyst and information technology professional with two college degrees (one in physics and the other in engineering) was not “servile enough” for him as compared to his stereotypical view of Indian females who routinely work as employees in Dunkin stores.

56. When Shetty found a proposed third location, Miller, and another Dunkin’ representative, John Panzer (Dunkin Development Manager) both came to a location she had

chosen and flatly rejected the proposed location, stating that it did not have a drive-thru. *This same site was later given to a male franchisee without the requirement of a drive-thru window.*

57. Miller also required, without cause or justification, that Shetty keep her store open twenty-four hours a day, despite the fact that remaining open for twenty four hours was dangerous because of crime in the area at night and did not make economic sense as was evidenced by Priti's daily sales figures. This unreasonable and unfair requirement was also made by Dunkin (by and through Miller) over Shetty's valid protestations that she feared for her own safety and the safety of her employees.

58. In response to these concerns, Dunkin's manager told Priti: "Why not tell Sandesh (her husband) to stand at the counter at night?" indicating again that as a woman Priti she was not competent to operate the Dunkin' location.

59. The twenty four hour operations issue was not changed until one of Priti's employees was attacked during the late nighttime hours and the shopping center landlord insisted that because of criminal incidents in the center, the Dunkin store not operate during the night hours.

60. Recognizing that she would continue to be thwarted by Miller and could not achieve the economies of scales by opening a third location, Priti and her partners decided to sell the two existing locations and get out of the Dunkin business, which they did in March 2010.

61. Curiously, upon information and belief, the purchaser of both of Priti's stores, a white woman by the name of Jo Anne Jedd, would never keep the store open after official closing hours and often closed at 8:00 P.M.

62. However, unlike Priti, the new white female owner, Jo Anne Jedd, was never reprimanded or threatened by Dunkin' or any of its representatives about closing early or not staying open until 11:00 P.M. or later.

63. Jo Anne Judd failed and abandoned both stores nine months later in December 2010.

3. Discriminatory Refusal to Permit Re-Purchase of Failed Locations

64. Moreover, when Jo Anne Jedd failed in the same two locations that Priti had successfully managed for several years, Dunkin refused to let her come back and operate the stores *by herself* on the false and discriminatory basis that she had not been a good operator.

65. In fact, at the time of the sale of both stores in March 2010 to Jo Anne Jedd, Priti Shetty and her partners were Dunkin franchisees in good standing and categorized as "able to expand".

66. As Priti was a guarantor on both leases for JoAnne Jedd's two failed stores, Dunkin's discriminatory decision not to let her resume operations caused her to sustain economic damages in that she now has to defend two lawsuits commenced by her former landlords for unpaid rent.

67. The first suit was commenced by Main Land Middlesex, LP on July 5, 2011 bearing docket number MRS-L-1933-11 with respect to the Wantage store.

68. A second suit was filed by Kite New Jersey, LLC on June 5, 2012 bearing docket number MRS-L-1392-12 with respect to the Oak Ridge location.

69. The Main Land Middlesex, LP suit seeks a total of \$66,618.47 plus interest consisting of \$53,294.77 in damages and attorney's fees in the amount of \$13,323.70.

70. The Kite New Jersey, LLC suit seeks \$86,998.69.

71. The two locations were abandoned by Jo Anne Jedd, and subsequently by Dunkin, when Dunkin refused to let Priti Shetty resume the franchise locations that she had run successfully for five consecutive years before.

72. In spite of the five year success of the Wantage and Oak Ridge stores, Dunkin falsely wrote that Priti's operation of the two stores for that period of time were "not in compliance" and further indicated Dunkin's anti-Indian female prejudice by accusing her of "not being the right person to run the stores" because she "did not like the business" which was totally at odds with emails sent by Priti to Dunkin that she "loved the business" but was upset by her harassment by Dunkin managers.

B. Plaintiffs Pretto's Claims of Discrimination.

73. Amy Pretto and Reggie Pretto wanted to develop Dunkin locations in the Greater New York/New Jersey area.

74. Dunkin representatives lied to them and falsely indicated that no SDAs were available in the regional area.

75. In making these false representations regarding the unavailability of locations, Dunkin deprived the Prettos of the right to purchase SDAs in the same economically advantageous New York regional area in which they lived and in which non-African American franchise developers were being given SDAs.

76. Instead, the Prettos were "steered" away from the New York regional area and to African American areas outside of the New York, New Jersey, Connecticut and Rhode Island region.

77. Dunkin's refusal to give the Prettos the same opportunities available to non-African American developers in the New Jersey/ New York regional area constitutes improper

racial steering in violation of Federal Civil Rights, New Jersey and York State anti-discrimination laws.

78. Dunkin's discriminatory actions was based upon Dunkin's misguided strategy of steering African Americans out of economically advantageous areas that it makes available to non-African American franchisees.

79. Upon information and belief, of the few African American multi unit franchisees in New York, they are overwhelmingly steered to economically disadvantaged areas.

80. Dunkin's improper steering actions violated §1981 of the United States Civil Rights Act (42 U.S.C.) as well as Article Art. I, §11 of the New York State Constitution, which prohibits discrimination in commercial transactions.

81. At first, Amy Pretto and her husband were steered to lower socioeconomic areas primarily populated by minorities in Philadelphia, Pennsylvania, that they rejected.

82. The Prettos were subsequently steered to economically disadvantaged and predominantly African American areas in Baltimore, Maryland and the District of Columbia, all of which the Prettos similarly rejected.

83. Finally, they were steered to Bowie, Maryland, also an African American area, which they nevertheless accepted because of the deceptive income representations given to them first orally by Dunkin Development Manager, Geri Welch, and then in written Dunkin "Site Economics" reports.

84. On or about August 9, 2004, the Prettos entered into a SDA with the Defendants. The SDA gave the Prettos the right to open two "satellite" donut sales stores in Odenton and Millersville, Maryland, as well as a third donut "producer" shop in Pasadena, Maryland. A

“satellite” donut shop only sells donuts, while a “producer” donut shop makes and sells its own donuts but also supplies donuts to satellite donut shops.

85. On or about November 1, 2004, the Prettos left New York and rented premises in Crofton, Maryland, after they had signed leases with Dunkin and the landlords to rent premises for the Mountain Road, Pasadena store on or about August 24, 2004 and the Piney Orchard Parkway, Odenton store on or about September 10, 2004.

86. On or about June 16, 2005, the Prettos entered into a second SDA. This agreement permitted Plaintiffs to open the Bowie Town Center satellite store as well as one other store.

87. At or before entering into the SDAs, Dunkin representatives made certain oral representations to the Prettos and gave them written “Site Economics” reports, all of which ended up being severely manipulated, skewed or totally false.

88. These Site Economics reports were not general in nature but were specific for the three locations that Dunkin wanted Plaintiffs to sign franchise agreements for and invest their money in building and developing, as combination Dunkin Donut/Baskin Robbins stores.

89. The Site Economics reports were given to Plaintiffs before they signed any of the three franchise agreements involved herein.

90. The Site Economics reports contained both Average Weekly Sales (“AWS”) and Break Even Projections (“BEP”) representations for the Bowie Town Center satellite store, Odenton store and Mountain Road/Pasadena store.

91. The Prettos relied to their ultimate detriment upon the written representations in all three Site Economics reports in determining whether they should enter into the franchisee

agreements and invest their money in building the three combination Dunkin Donut/Baskin Robbins stores.

92. By way of example, the Prettos were orally advised by Defendants' development manager Geri Welch, as well as by the written Site Economics report, that the AWS for Odenton would be \$15,500. The actual AWS, however, was only \$11,500 or 26 % less than what had been projected by defendants Dunkin and Baskin.

93. Plaintiffs were also orally advised by Defendants' development manager Geri Welch and by the written Site Economics report, that the AWS for Bowie would be \$18,500. The actual AWS, however, was only \$12,000, or 33 and 1/3% less than what had been projected by defendants Dunkin and Baskin.

94. In addition to incurring themselves for a \$500,000 loan to build the Odenton store, the Prettos then borrowed an additional \$700,000 to build the Bowie store and an additional \$1,000,000 to build the Pasadena producer store.

95. In or about 2005, the Prettos, together with Marc Wallace, the father of Amy Pretto, signed three franchise agreements to open the combination Dunkin Donut and Baskin Robbins stores in Maryland.

96. The first franchise agreement was signed on May 9, 2005, and was for a satellite donut shop to be located in Odenton, Maryland.

97. The second franchise agreement was signed on July 28, 2005 and was for a second satellite donut shop to be located in Bowie, Maryland.

98. The third franchise agreement was signed on November 12, 2005 and was for a "producer" donut shop, to be located on Mountain Road in Pasadena, Maryland.

99. The Mountain Road “producer” donut shop would not only make donuts for its own use but would also supply donuts to the Odenton and Bowie stores, as well as two other stores that Plaintiffs were obligated to open pursuant to the two “SDAs.”

100. In addition to financing they received from third-parties, the Prettos invested approximately \$250,000 of their own money, \$150,000 of which came from the sale of their Croton-On-Hudson home to pay for the SDA fees and purchase and build the three locations.

101. Because of subsequent electrical power difficulties that arose in connection with the Mountain Road store that was the result of negligence on the part of Dunkin, the Prettos had to borrow an additional \$270,000 from Amy Pretto’s father, Marc Wallace, a retiree, an additional to assist in their further development of their franchises.

102. The negligence on the part of Dunkin concerned the lack of due diligence in investigating the readiness of the site for development. The Mountain Road Store lease was negotiated by Dunkin on behalf of the Prettos but Dunkin failed to appropriately deal with electrical problems occurred when an ATM electrical cable was placed in proximity to the store location by the landlord, prior to the start of construction. As a result, the build-out of the Mountain Road location was delayed for at least eight months, resulting in the Prettos having to pay rent prematurely, excess loan charges and additional fees of over \$150,000.

103. The problems with the electrical service at Mountain Road also increased the operating cost of the Odenton and Bowie satellite stores because the Mountain Road producer store was intended to supply those two satellite locations with donuts at wholesale, but instead the Prettos had to purchase donuts from other franchisees and pay above wholesale.

104. Because Plaintiffs had to purchase donuts from other franchisees rather than being able to make the donuts themselves at the Mountain Road store, they incurred approximately \$35,000 in additional operating costs.

105. Further, Dunkin turned a deaf ear to Plaintiffs' problems with their landlord and did not provide them with any assistance when the electrical problems arose, despite the fact that Dunkin had conducted a due diligence of the site and recommended its use by Plaintiffs for a producer store.

106. Recognizing they were in financial trouble, the Prettos contacted other Dunkin franchisees and third-parties in an attempt to sell their stores. The Prettos, at all relevant times, made Dunkin aware of their intention to sell the franchises. Dunkin's response, however, was self-serving.

107. Instead of assisting the Prettos to advertise and sell their three financially burdensome locations, Dunkin took advantage of the Prettos' situation in order to re-sell the stores to non-African American developers at "fire sale" prices, which, in turn, enabled Dunkin to realize windfall profits, additional income and fees.

108. Specifically, the Prettos were told by Dunkin's strategic asset manager, Bill Laird ("Laird") that no sale would be possible to any other franchisee, unless Dunkin approved the deal and that the Pretto's choice was to: "only deal with Dunkin or go bankrupt."

109. Dunkin wrongfully benefitted by financially strangling the Prettos in that it was able to re-sell the three locations to third party buyers and obtain significant new SDA fees.

110. As a result of Dunkin's actions, the Prettos lost their entire investment as well and had to declare bankruptcy.

COUNT I

**RACIAL STEERING -CIVIL RIGHTS VIOLATIONS 42 U.S.C. §1981
(AS TO ALL PLAINTIFFS)**

111. Plaintiffs repeat and reallege each and every allegation contained in the foregoing paragraphs of this Verified Complaint with the same force and effect as though fully set forth at length herein.

112. 42 U.S.C. §1981 provides for “equal rights under the law” and prohibits racial discrimination.

Plaintiffs Amy and Reggie Pretto

113. Under 42 U.S.C. § 1981, Plaintiffs Priti Shetty, and the Prettos are members of a protected class, as they are either minority females or African Americans, respectively.

114. Dunkin’ has engaged in a systematic course of discriminatory business practices and a scheme against Amy and Reggie Pretto because they are African American and Priti Shetty, because she is an Indian American female, in violation of 42 U.S.C. §1981.

115. Specifically, Dunkin racially “steers” African American franchisees away from higher socioeconomic and predominantly “white” areas, into lower socioeconomic primarily minority-populated areas.

116. Similarly, the Prettos were desirous of developing Dunkin locations in the Greater New York region.

117. The Prettos were falsely told that no SDAs were available in the New York/New Jersey region and instead were steered to minority areas outside of New Jersey, New York, Connecticut and Rhode Island.

118. At first they were steered to a minority area in Philadelphia, Pennsylvania which they rejected.

119. Then the Prettos were steered by Dunkin to Washington, D.C., which they also rejected.

120. Dunkin then steered the Prettos to an economically disadvantaged minority area in Baltimore, Maryland which they rejected.

121. Finally, they were steered to Bowie, Maryland, also an African American minority area, which they accepted because of the inaccurate and false income representations given to them by Dunkin, as more fully previously set forth in preceding paragraphs of this Complaint.

122. Upon information and belief, of the few African American multi-unit franchisees in New York, they are overwhelmingly steered to economically disadvantaged minority areas, with Dunkin reserving the economically better areas for white franchisees.

123. Upon further information and belief Dunkin does not have any African-American female or male multi-unit franchisees in the State of New Jersey and has intentionally prevented African Americans from becoming Dunkin franchisees in New Jersey.

124. Upon further information and belief Dunkin does not have any African-American unit franchisees in the State of Connecticut or the State of Rhode Island and has intentionally prevented African Americans from becoming Dunkin franchisees in those states.

125. Upon information and belief of the over 6,990 Dunkin/Baskin Robbins franchises, less than fifty (50) are owned by African-Americans.

126. Of those franchises owned by African-Americans outside of New York, the majority of the franchises are located in economically less advantageous minority areas including but not limited to Washington, D.C, Roxbury, MA and Accokeek, Maryland.

127. Dunkin engages in this discriminatory conduct with the intent of depriving African-Americans the economically advantageous opportunities afforded non-African American franchisees.

Plaintiff Priti Shetty

128. Despite operating two profitable locations, Priti Shetty's request to open a third location in Stockholm, New Jersey was unreasonably rejected after she told Dunkin she would be solely responsible for operating the store.

129. The flimsy excuse used by Dunkin for its refusal to approve the third location was that the store would not be able to service customers without a drive-thru window.

130. This same Stockholm location, however, was eventually sold to a (white) male, and to date operates without a drive thru window.

131. The discriminatory nature of this refusal is further reinforced by the fact that Priti Shetty was regularly subjected to harassment and unfair treatment (as previously described above) at her other two Dunkin locations by her Operational Manager Wayne Miller and other Dunkin managers who regularly berated Priti (and her female Indian employees) and threatened to fail Priti's stores on inspections without cause and repeatedly told Priti because she was an Indian woman, she was not able to run a Dunkin location.

132. Dunkin also refused to let her re-open the two franchised stores that failed after nine months of operation by a white operator – after she had successfully operated the locations for five years - because she is an Indian American female.

133. Dunkin's unreasonable refusal to let Priti Shetty re-open the Wantage and Oak Ridge stores has resulted in her being sued for rent by the two separate landlords of those premises.

COUNT II

NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1 et seq. DISCRIMINATORY REFUSAL TO DO BUSINESS (On Behalf of Plaintiff Shetty)

134. Plaintiffs repeat and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as though fully set forth at length herein.

135. The N.J. LAD prohibits discriminatory refusals on the basis of race, national origin, color and sex, by making it unlawful:

For any person **to refuse to** buy from, sell to, lease from or to, **license, contract with**, or trade with, provide goods services or information to, or otherwise do business with **any other person on the basis of race, creed, color, national origin**, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents employees, business associates, suppliers or customers.

[N.J.S.A. 10:5-12(l)](emphasis supplied)

136. Section 12(l) of the N.J. LAD prohibits refusals to do business with independent contractors (as opposed to employees) based on age, sex, or handicap. See, e.g., JT's Tire Service, Inc. v. United Rentals NA, Inc., 411 N.J. Super. 236 (App. Div. 2009); Nini v. Mercer County Cmty. Coll., 406 N.J. Super. 547, 557 (App. Div.) certif. granted, 200 N.J. 206 (2009); Rubin v. Forest S. Chilton, 3rd Mem'l Hosp., Inc. 359 N.J. Super. 105, 110-11 (App. Div. 2003) (prohibiting discriminatory termination of a contract); Horn v. Mazda Motor of Am., Inc. 265 N.J. Super. 47, 63 (App. Div.) certif. denied, 134 N.J. 483 (1993)).

137. Plaintiff, as a Dunkin franchisee/developer engaged in a written contractual relationship with Defendants, was an independent contractor of Defendants and is entitled to protection from race, color, national origin or gender based discrimination under Section 12(l).

138. Defendants knowingly refused to do business with Plaintiff Shetty based upon her race, national origin, color and sex by (i) consistently permitting its agent to make derogatory, harassing and threatening statements to Plaintiff Shetty and advising her that females were incapable of competently operating Dunkin stores and (ii) refusing to permit her to open a third Dunkin location in Stockholm, New Jersey without cause or justification and subsequently permitting a male franchisee to open the same location.

139. Defendants' conduct in the aggregate constitutes a violation of N.J. LAD, Section 12(l).


PRAYER FOR RELIEF

Plaintiffs seek both equitable relief and money damages in an Order:

- a. Declaring and Adjudging that Defendants have violated 42 U.S.C. § 1981.
- b. Enjoining Defendants from continuing its discriminatory policies against African Americans and other minority franchisees and prospective franchisees and requiring Defendants to immediately implement a program of minority incentives to encourage investment by African Americans and other minority franchisees
- c. Requiring Defendants to implement a "Remedial Damages" program or programs to foster and assist African American franchise ownership in economically advantageous areas which would be monitored for compliance and efficiency by the Southern Christian Leadership Conference (SCLC) or an appropriate Human Rights agency designated by the Court, the cost of which will be borne exclusively by Defendants.

- d. Compensatory Damages;
- e. Consequential Damages;
- f. Punitive Damages;
- g. Attorneys fees and costs;
- h. Any other relief this Court deems equitable and just.

MARKS & KLEIN, LLP

BY: 
GERALD A. MARKS
Attorneys for Plaintiffs


DEMAND FOR A JURY TRIAL

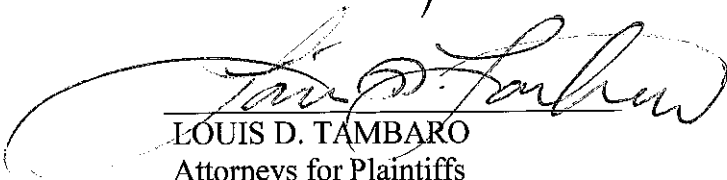
Plaintiff demands a trial by jury as to all issues raised by this pleading.

DESIGNATION OF TRIAL COUNSEL

Gerald A. Marks and Louis D. Tambaro are hereby designated as trial counsel for the within complaint.

MARKS & KLEIN, LLP

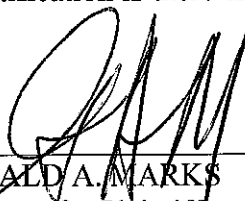

GERALD A. MARKS


LOUIS D. TAMBARO
Attorneys for Plaintiffs

CERTIFICATION OF NO OTHER ACTION PENDING

It is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding, except those referred to in this complaint, specifically the concluded bankruptcy proceeding of Amy Pretto and Reggie Pretto, which do not involve the United States Civil Rights and New Jersey and New York statutory causes of action for discrimination involved herein, to the best of my knowledge or belief. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Dated: August 10 2012



GERALD A. MARKS
Attorney for Plaintiff

EXHIBIT A

MARKS & KLEIN, LLP

—COUNSELORS AT LAW—

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GERALD A. MARKS
jerry@marksklein.com
Admitted New Jersey, New York
& U.S. Supreme Court

SENT VIA FEDERAL EXPRESS
and E-MAIL (john.luther@dunkinbrands.com)

COPY

Mr. John Luther, CEO
Dunkin' Brands
130 Royall Street
Canton, MA 02021

Re: Reggie and Amy Pretto

Dear Mr. Luther:

As I believe you may not be aware of the injustice involved in this matter, I am bringing the facts directly to your attention. I am doing so with the expectation that you will right the wrong incurred by my clients given the serious charges my clients have made as to Dunkin's discriminatory "steering" policies against African Americans and the use of deceptive income representations.

Specifically, my clients, Reggie and Amy Pretto, who are African-Americans were steered to minority areas and excluded from more economically lucrative "white" locations.

The facts herein begin in 2004 when the Prettos were residents of the State of New York and entered into an SDA with Dunkin. They wanted to develop Dunkin locations in the Greater New York area but were falsely told that no SDAs were available. Instead, the Prettos were sent to minority areas outside the New York, New Jersey, Connecticut and Rhode Island region.

At first, they were steered to a minority area in Philadelphia, Pennsylvania, that they rejected. Then, they were steered to Baltimore, Maryland, a second minority area that they rejected. Finally, they were steered to the minority section of Bowie, Maryland, which they nevertheless accepted because of the deceptive income representations given to them first orally by Dunkin Development Manager, Geri Welsh, and then in written Dunkin "Site Economics" reports.

In the Site Economic report for Bowie, MD, it was represented that the average weekly sales ("AWS") would be \$18,500. The actual AWS was \$12,000, or 33 1/3% less than what had been projected. A second AWS, for Odenton, MD, represented that the AWS would be \$15,500. The actual AWS, however, was only \$11,500 or 26 % less than that which was represented.

Additional problems arose with the third Pasadena, MD, location as a result of Dunkin's negligent site due diligence with respect to electrical service. An eight month delay in getting electrical service to the store pad caused my clients to incur over \$180,000 in unnecessary rent,

MARKS & KLEIN, LLP

loan payments and other expenses.

The Prettos relied upon the written representations in the Site Economics reports in determining whether they should sign the franchisee agreements and invest their money in building the three combination Dunkin Donut/Baskin Robbins stores. All these AWS **projections were given prior to the signing of the franchise agreements** in violation of New York, Maryland and Massachusetts statutory franchise laws.

Finally, when my clients tried to sell their locations to lessen their losses, Dunkin personnel interfered with prospective buyers in order to advance their own economic interests at the expense of the Prettos.

The Prettos have lost over \$750,000 and had to declare bankruptcy as a result of Dunkin's steering, income misrepresentations and site review incompetence. If Mr. Pretto, as a former Dunkin employee, could not make these locations work, what would make any investors who might be considering purchasing one or more SDAs hope to succeed?

Amazingly, the Prettos have told me that to the best of their knowledge, Dunkin does not have any African-American franchisees in New York, New Jersey, Connecticut and Rhode Island and of the approximately 5000+ Dunkin/Baskin Robbins franchises in the United States, less than fifteen (15) are owned by African-Americans with the majority of their stores being located in minority areas.

Mr. Luther, I want to give you the opportunity to do right by my clients and at the same time welcome the opportunity to resolve this matter in private. I therefore propose that Dunkin immediately agree to confidentially mediate my client claims as well as institute anti-discrimination policies that will be a credit to all parties involved.

I need to have a response from either you or your attorneys within seven days from the date of this letter.

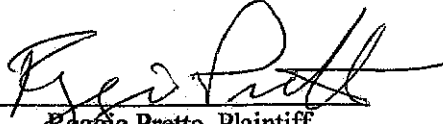
Very truly yours,

Gerald A. Marks

cc: Mr. and Mrs. Reginald Pretto

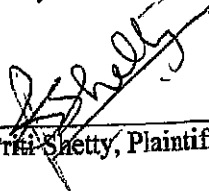
CERTIFICATION OF REGGIE PRETTO

I hereby certify that the facts and circumstances relating to my cause of action are true to the best on my knowledge and I am aware of the penalty for making false statements.


Reggie Pretto, Plaintiff

CERTIFICATION OF PRITI SHETTY

I hereby certify that the facts and circumstances relating to my cause of action are true to the best on my knowledge and I am aware of the penalty for making false statements.



Priti Shetty, Plaintiff