

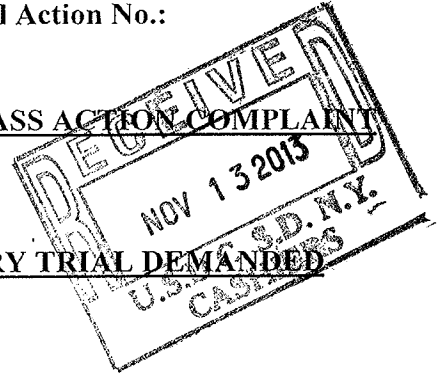
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
 ROBERT L. BROWN, on behalf of himself :  
 individually and as representative of a class of :  
 similarly situated individuals, :  
 :  
 Plaintiff, :  
 :  
 - against - :  
 :  
 MACY’S, INC.; TERRY J. LUNDGREN; PETER :  
 SACHSE; and THOMAS ROAN, :  
 :  
 Defendants. :  
 ----- X

Civil Action No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED



Plaintiff Robert L. Brown (“Plaintiff” or “Mr. Brown”), on behalf of himself individually and as representative of a class of similarly-situated individuals of color, by and through his undersigned counsel, Thompson Wigdor LLP and Elefterakis Elefterakis & Panek, as and for his Class Action Complaint against Defendants Macy’s, Inc., (“Macy’s,” the “Store,” or the “Company”), Terry J. Lundgren (“Mr. Lundgren”), Peter Sachse (“Mr. Sachse”), and Thomas Roan (“Mr. Roan”) (collectively, “Defendants”), hereby alleges as follows:

**NATURE OF THE CLAIMS**

1. Macy’s -- self-proclaimed “America’s best-loved department store” -- is at it again.
2. A mere eight years after a landmark lawsuit was brought against Macy’s by the New York State Attorney General’s Office (the “New York AG”) publically exposing the Store’s vile, shocking and discriminatory policies and practices of targeting and racially profiling its Black, Hispanic, Asian and other non-White shoppers for suspected criminal activity within its stores, which culminated in a consent decree in which Macy’s promised to bring an end to

these racist policies and practices (the “Consent Decree”), Macy’s disturbingly continues to treat its shoppers of color as second-class customers.

3. Macy’s has done this by enacting and endorsing Company-wide policies and procedures through which Black, Hispanic, Asian and other non-White shoppers are disproportionately followed, stopped, detained and falsely accused of shoplifting, credit card fraud and other acts of larceny as compared to its White customers.

4. These discriminatory, Company-wide policies and practices have left Macy’s customers of color feeling victimized, humiliated, traumatized, and, for many, having to defend themselves against baseless criminal charges that have potentially detrimental, long-lasting effects on their livelihoods, ability to obtain gainful employment and reputations.

5. As such, Macy’s has squarely reneged on the promises it made to bring an end to its discriminatory policies and practices, and has chosen instead to continue to violate the constitutional and civil rights of countless Macy’s shoppers of color across America.

6. This is evidenced, in part, by the scores of individual lawsuits filed against Macy’s by Black, Hispanic, Asian and non-White shoppers, both before and after the terms of the Consent Decree technically expired in 2008, accusing the Store of, among other things, following, stopping, falsely accusing, detaining and often even bringing baseless criminal charges against innocent shoppers merely because of the color of their skin. A number of these representative cases will be discussed below.

7. Accordingly, it is clear that Macy’s has not changed its ways, and has no interest in bringing an end to the unlawful race-based profiling of its customers of color. Rather, it is clear that Macy’s is content to simply chalk up having to defend individual lawsuits brought by customers of color whose civil rights have been violated as just another cost of doing business.

8. However, this lawsuit seeks to bring an end, once and for all, to Macy's' disturbing, unlawful, and discriminatory pattern and practice of racially profiling and disproportionately following, stopping, detaining, harassing and accusing innocent customers of color of shoplifting, fraud and other acts of larceny.

9. Specifically, Plaintiff Robert Brown, a 29-year old Black male, seeks to vindicate Macy's' trampling of his civil rights, as well as its violation of the rights of a class of similarly-situated innocent Black, Hispanic, Asian, and other non-White Macy's customers nationwide, who have been and will be unlawfully followed, stopped, accused, detained and/or falsely charged with shoplifting, credit card fraud and other acts of larceny allegedly committed within Macy's' stores from the period of November 14, 2009 to the date on which this action is disposed, in violation of 42 U.S.C. § 1981 (Section 1981), 42 U.S.C. § 1982 (Section 1982), and 42 U.S.C. § 1985 (Section 1985). This class will be referred to as the "Nationwide Class."

10. Mr. Brown also seeks to represent a subclass within the Nationwide Class consisting of those similarly-situated innocent Black, Hispanic, Asian and other non-White Macy's customers who have been unlawfully followed, stopped, accused, detained and/or falsely charged with shoplifting, credit card fraud and other acts of larceny allegedly committed within Macy's' stores located within New York state, for the period of November 14, 2010 to the date on which this action is disposed, in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296 (the "NYSHRL"), the New York Civil Rights Law § 40 ("the "NYCRL"), and the common law torts of false imprisonment, negligence, assault and battery. This subclass will be referred to as the "New York State Class."

11. Mr. Brown also seeks to represent a subclass within the New York State Class consisting of those similarly-situated innocent Black, Hispanic, Asian and other non-White

Macy's customers who have been unlawfully followed, stopped, accused, detained and/or falsely charged with shoplifting, credit card fraud and other acts of larceny allegedly committed within Macy's' stores located in New York City, from the period of November 14, 2010 to the date on which this action is disposed, in violation of the New York City Human Rights Law (the "NYCHRL"), N.Y.C. Admin. Code § 8-107.

12. As will be discussed in more detail below, Mr. Brown, who is an actor who has starred in numerous films and television series, had gone to Macy's' "flagship" Herald Square, New York location on June 8, 2013 to purchase his mother a watch as a graduation present. After he purchased a thirteen-hundred dollar (\$1300) Movado watch, but while attempting to complete a purchase of a pair of sunglasses that he was ready, willing and able to buy, he was suddenly, without justification, and at the direction of Macy's personnel, stopped in the middle of the store by three unidentified Caucasian men (who are believed to be New York City Police Department ("NYPD) officers), who proceeded to publically and falsely accuse him of having committed credit card fraud. Before he knew it, Mr. Brown was forcefully grabbed and placed into handcuffs, despite posing no threat to anyone. As he pleaded with the men to simply allow him to verify his identity by showing them identification matching the information on the credit card he had used, the men refused to listen to Mr. Brown, and instead paraded him around the store like an already convicted common criminal, eventually leading him against his will to a room within the store, where he was thrown into a holding cell enclosed by metal bars. There, for upwards of an hour, Mr. Brown was berated and mocked by these men, who repeatedly expressed their certainty that Mr. Brown had used a fake credit card, particularly because someone like Mr. Brown, *i.e.* a person of color, could certainly not afford such an expensive item. One of these men even explicitly told Mr. Brown that they had been called in to arrest Mr.

Brown by someone from Macy's. However, after the men learned that Mr. Brown was a television and film actor and that his credit card was in fact not a fake, Mr. Brown was finally released, but not before the men attempted to curry favor with Mr. Brown in a bid to keep him silent about the violations of his civil rights they had just committed by bizarrely offering to drive Mr. Brown to his mother's graduation blocks away in a police car, with sirens blazing.

13. The disturbing truth is that Mr. Brown's harrowing ordeal was not an isolated event at Macy's, but is just one example of Macy's' relentless and unlawful pattern and practice of racially profiling and disproportionately targeting its shoppers of color for suspected criminal activity.

14. This suit seeks to bring a halt to this disgusting, discriminatory pattern and practice.

#### **JURISDICTION AND VENUE**

15. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343 and 1367(a).

16. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events and omissions giving rise to this action occurred in this district, and because Defendants have corporate offices that can be found and conduct business in this district.

#### **THE PARTIES**

17. Plaintiff Robert L. Brown ("Mr. Brown"), a Black male who resides in Brooklyn, New York, represents a class of innocent Black, Hispanic, Asian and other non-White shoppers who have been or are being targeted for committing theft, credit card fraud and/or other acts of larceny by Macy's in its stores throughout the United States based upon their race, national

origin, ethnicity and/or color, and then subjected to false arrests, wrongful detentions, bodily searches, abuse, insults and harassment, as well as confiscation of their personal property, and/or who have suffered or are continuing to suffer the discriminatory effects of Defendants' policies and practices.

18. Mr. Brown is employed as an actor and has starred in movies such as "Coach Carter," "Finding Forrester" and "The Express," as well as television series such as "Treme."

19. Defendant Macy's, Inc. ("Macy's"), formerly known as "Federated Department Stores, Inc.," is an Ohio corporation with its headquarters in Cincinnati, Ohio and corporate offices in New York, New York. Macy's owns and operates approximately 800 retail stores located throughout the United States, the District of Columbia, Puerto Rico and Guam, including its "flagship" store in Herald Square, Manhattan, New York, as well as the department store chain "Bloomingdales."

20. Defendant Terry J. Lundgren, the President, Chief Executive Officer and Chairman of Macy's, is a resident of New York, and maintains a principal place of business at Macy's headquarters in Cincinnati, Ohio, as well as in New York. In this capacity, he regularly transacts business and can be found in New York. At all times relevant hereto, he had knowledge of, authorized, approved, acquiesced in and/or ratified the unlawful pattern and practice, and discriminatory policies described herein.

21. Defendant Peter Sachse, the Chief Stores Officer of Macy's, maintains his principal place of business at Macy's in New York City. At all times relevant hereto, he had knowledge of, authorized, approved, acquiesced in and/or ratified the unlawful pattern and practice, and discriminatory policies described herein.

22. Defendant Thomas Roan, the Group Vice President of Loss Prevention for Macy's, maintains his principal place of business at Macy's in New York City. He is in charge of all loss prevention and/or security policies and practices for Macy's, and, therefore, has knowledge of, authorized, approved acquiesced in and/or ratified the unlawful pattern and practice, and discriminatory policies described herein.

23. Mr. Roan was formerly Macy's Group Vice President of Security, but was promoted by Macy's to the position he currently holds in spite of his long-standing, direct involvement with the unlawful, discriminatory practices and policies that are detailed herein,

### **FACTUAL ALLEGATIONS**

#### **I. Defendants' Pattern and Practice of Racial Profiling**

24. Macy's engages in a pattern and practice of racially profiling its African-American/Black, Hispanic, Asian and other non-White shoppers as suspected criminals. Specifically, store security personnel commonly and disproportionately target and follow people of color for suspicion of shoplifting, credit card fraud, and other acts of larceny, and disproportionately subject those shoppers to false accusations of unlawful activity, wrongful detentions, unjustified body and property searches, false imprisonment, wrongful confiscation of property and other harassment on the basis of their race, national origin, ethnicity and/or color.

25. Upon information and belief, pursuant to corporate-wide policies and practices, security personnel target people of color for surveillance as soon as they enter Macy's stores, as well as when they enter certain departments within stores. People of color are targeted to be followed by plain-clothes detectives and to be observed by closed circuit TV as they move throughout Macy's stores.

26. Upon information and belief, Macy's employees are also trained to target people of color for suspected credit card fraud and other acts of larceny, and to then alert security personnel and others to follow these individuals and later detain and accuse them on unlawful conduct.

27. This conduct is engaged in, authorized, fostered and/or condoned by, among others, Defendants' security directors and security managers.

28. Defendants' pattern and practice of "racial profiling" or targeting African-American/Black, Hispanic, Asian and other non-White shoppers as shoplifters or as committing fraud or other crimes of deceit and detaining such shoppers on the basis of their race, national origin, ethnicity and/or color violates the civil rights of such shoppers.

29. Such civil rights violations and other unlawful conduct have occurred with the full knowledge, approval, acquiescence and/or ratification of Defendant Macy's and individual Defendants Lundgren, Sachse and Roan.

30. Among Defendants' common discriminatory practices are:

- a. Subjecting people of color to false accusations of shoplifting, credit card fraud and other acts of larceny in disproportionately high percentages;
- b. Subjecting people of color suspected of shoplifting, committing credit card fraud or other acts of larceny to ridicule, insults, verbal and physical abuse and harassment;
- c. Subjecting people of color suspected of shoplifting, committing credit card fraud or other acts of larceny to unlawful and false detention inside of holding cells location within Macy's stores in disproportionately high percentages;



- d. Subjecting people of color suspected of shoplifting, committing credit card fraud or other acts of larceny to baseless criminal prosecutions in disproportionately high percentages;
- e. Stereotyping shoppers of color as likely criminals, and then targeting and following such persons for no reason but their race; and
- f. Conducting surveillance of shoppers of color disproportionately more than White customers, resulting in people of color being disproportionately followed, stopped, questioned, detained and ultimately falsely charged with crimes they did not commit as compared to Macy's' White customers.

31. The specific, racially motivated abuses giving rise to this class action constitute an on-going pattern and practice that has occurred and is continuing to occur in Macy's stores throughout the United States.

32. Further, Macy's' corporate-wide policies and practices give security managers, directors and other high-ranking security executives unfettered discretion to decide, among other things, which shoppers will be following and which will be detained as suspected of shoplifting, committing fraud or other acts of larceny.

33. This discretion to exercise subjective decision-making in deciding whom to follow and apprehend has a disparate discriminatory impact and leads to systematic discrimination against African-American/Black, Hispanic, Asian and other non-White shoppers in violation of their civil rights.

34. Upon information and belief, in addition to targeting African-American/Black, Hispanic, Asian and non-White shoppers for disproportionate surveillance and detention on

suspicion of shoplifting, credit card fraud, or other acts of larceny, Macy's security managers, directors and other high-ranking security executives also criminally prosecute a higher percentage of people of color who have been detained as compared to White/Caucasian suspects.

35. Upon information and belief, the decision whether a suspect will be criminally prosecuted is not controlled by any objective, race-neutral factors. Rather, Macy's' policies and practices establish an entirely subjective decision-making process that permits security managers and directors to systematically discriminate against people of color in, among other things, deciding which larceny suspects will or will not be prosecuted.

36. The discretion to exercise entirely subjective decision-making in deciding whom to prosecute and/or other decisions within Macy's corporate-wide security practices leads to systematic discrimination against African-American/Black, Hispanic, Asian and other non-White shoppers in violation of their civil rights.

37. These discriminatory company-wide policies and practices that have resulted in systematic discrimination against Macy's' shoppers of color is not unsurprising given that, of the twelve (12) individuals on Macy's executive management team, not a single executive is a person of color.

38. Macy's has even instituted company-wide policies and practices which seek to cover-up its systematic discrimination of individuals of color who shop at its stores by "buying off" people of color who have been falsely accused of committing crimes through low amounts of store credit, which are referred to as "Macy's Bucks."

39. Each individual Defendant, by virtue of their position at Macy's, has knowledge of and has acquiesced in and/or ratified the substantial and extremely unjust racial disparities that exist between the number of Black, Hispanic, Asian and other non-White shoppers apprehended

for alleged shoplifting, fraud and other acts of larceny in Macy's stores as compared to the number of White shoppers.

40. Moreover, upon information and belief, statistically significant racial disparities in the number of people of color detained for alleged shoplifting, credit card fraud and other acts of larceny exist at many Macy's stores nationwide.

## **II. Allegations of Named Plaintiff and Class Representative**

41. The class is represented by Plaintiff Robert Brown ("Mr. Brown"), who was wrongfully targeted for suspicion of credit card fraud based on his race (African-American) and/or color (Black), and subjected to civil rights violations, discrimination and other unlawful conduct at Macy's flagship store at Herald Square, New York, the self-proclaimed "Largest Department Store in the World."

42. The conduct suffered by Mr. Brown is part of Defendants' continuing pattern and practice of civil rights violations, discrimination and other unlawful conduct against people of color who shop at Macy's stores located throughout the United States.

43. On June 8, 2013 at about 3:00 p.m., Mr. Brown entered the Macy's "flagship" store located at Herald Square in Manhattan. On that day, Mr. Brown was a very proud man, excited about attending a graduation ceremony celebrating his mother, Myra's, graduation from a Master's degree program, which was set to take place about an hour later at the Jacob Javits Convention Center a few blocks away.

44. Mr. Brown went to Macy's to purchase a gift for his mother, which he hoped to surprise her with.

45. By the time he entered Macy's, Mr. Brown had the perfect gift in mind - a nice wrist watch. Mr. Brown proceeded to calmly walk to the watch section at Macy's, which was located on the first floor.

46. Mr. Brown approached a male, Caucasian Macy's employee who was standing behind a glass display containing high-end watches. Mr. Brown asked to see a few of the watches, and told the employee that his target price was about a thousand dollars.

47. After looking at a few watches, Mr. Brown decided on a Movado brand watch that cost approximately thirteen hundred dollars (\$1300.00). Because the watch he had chosen was a display model and had its price tag glued to it, the Macy's employee who had shown Mr. Brown this watch offered to clean and wipe down the watch so that it could be presentable to his mother. Mr. Brown accepted this offer.

48. Knowing that it would take several minutes for the watch to be ready, Mr. Brown decided to browse for a pair of sunglasses while he waited.

49. As he made his way to the Sunglass Hut counter also located on the first floor, Mr. Brown was instantly recognized by a Macy's employee at the counter, who commented to him on how Mr. Brown ought to purchase "shades." Mr. Brown smiled at this employee and walked closer to the Sunglass Hut counter.

50. There, he asked another Macy's employee to try on a few pairs of sunglasses. After a few minutes, Mr. Brown decided on a pair of sunglasses to purchase. This pair cost approximately three hundred and fifty dollars (\$350.00), and was also a display model which had been tried on by a number of customers. The Macy's employee offered to tighten the frames in the pair of sunglasses that Mr. Brown was ready, willing and able to purchase, to which Mr. Brown agreed.

51. Realizing that it would also take a few minutes to tighten the frames on the pair of sunglasses he had decided to buy, Mr. Brown informed the Macy's employee tending to the pair of sunglasses that that he needed pick up a watch from the watch counter, and would be right back.

52. Mr. Brown then returned to the store's watch section, and learned that his watch was ready for purchase. Mr. Brown then handed over his American Express credit card to the cashier, who finalized the transaction without incident.

53. Mr. Brown, with his credit card in one hand and a shopping bag containing the watch he had picked out for his mother in the other, made his way back to the Sunglass Hut counter to complete the purchase of the pair of sunglasses.

54. However, Mr. Brown never got the chance to finalize this purchase. Rather, as he reached out to hand over his American Express credit card to the employee behind the Sunglass Hut counter, Mr. Brown suddenly felt a violent tap on his shoulder. Upon turning around, Mr. Brown saw three Caucasian men standing immediately behind him. Mr. Brown, who held in one hand a brand new watch which he had just purchased, and his credit card in the other, did not recognize the three men who had suddenly surrounded him, and became fearful that he was about to be the victim of a robbery.

55. One of the three men then loudly accused Mr. Brown of having used a fake credit card. Within moments, the men grabbed Mr. Brown's arms and shoulders, forcibly pulled his hands behind his back, and placed Mr. Brown in handcuffs, right there in the middle of the main floor of Macy's' flagship location. The men were so eager to arrest Mr. Brown that one of them grabbed the hand that was holding his American Express credit card in such a forceful manner that that credit card became bent.

56. Mr. Brown, who was in shock as to what was occurring and still apprehensive about who these men were and what they wanted to do with him, asked these men to identify themselves. While one of the men quickly flashed some type of badge in front of Mr. Brown, Mr. Brown was unable to decipher what this badge represented. The men did not verbally identify themselves, leaving Mr. Brown unaware of the identities of these men who were suddenly accusing him of committing credit card fraud, and had placed him in handcuffs in front of hundreds of people, some of whom had already recognized who he was.

57. Mr. Brown pleaded with these men that he was innocent and that his credit card was not fake, and could easily be verified by comparing the name on the card to the names on the various forms of identification he had with him.

58. However, the men refused to so much as even listen to Mr. Brown pleas of innocence, and instead continued to accuse him of using a fake credit card, while forcefully leading him around the store in handcuffs. Mr. Brown was paraded around the store like a common criminal, on display by these three Caucasian men, one of whom Mr. Brown later found out was an NYPD police officer, as if he was some trophy they had just won.

59. The men even loudly yelled, "Move! Move! Move!" as they led Mr. Brown through Macy's corridors, deliberately drawing as much attention as they could to the arrest they had just proudly made.

60. Mr. Brown was eventually led to a room within Macy's that contained a number of prison cell-like rooms, which were enclosed by metal bars. Mr. Brown, still in shock and disbelief as to how a credit card that was in his name and that had been used mere minutes earlier without incident was now accused of being fake, observed the other holding cells in the room occupied exclusively by individuals of color.

61. Mr. Brown was placed into one of these holding cells and told to remove his belt and wallet, and to hand over the backpack he had been wearing. Mr. Brown also had his cell phone confiscated, leaving him unable to let his family know that he was being detained inside what appeared to be a prison cell within Macy's, and that his attendance at his mother's graduation was in jeopardy.

62. Upon information and belief, hundreds of other White/Caucasian Macy's customers were purchasing Macy's merchandise in the Herald Store location at or around the time Mr. Brown was at the store, including many who were purchasing items with American Express and other types of credit cards. Yet Mr. Brown, an innocent man who happened to be Black, was followed, stopped, accused of committing credit card fraud, battered and assaulted, placed in handcuffs, and then paraded around the store before finding himself detained in a prison cell inside Macy's.

63. Upon information and belief, Mr. Brown was immediately targeted by Macy's employees, both through surveillance cameras and through the eyes of employees on the floor, as soon as he entered Macy's, and particularly as he traveled through the store's high-end designer watch and sunglass sections – consistent with Macy's' company-wide practice, policy and/or custom of racially profiling and targeting its customers of color. This unfounded suspicion was exacerbated by Mr. Brown's purchase of an expensive watch, as well as his subsequent attempt to purchase a pair of expensive sunglasses. To those Macy's' personnel who were trained to closely follow and scrutinize persons of color who enter Macy's stores and/or shop in departments containing expensive merchandise, and who, upon information and belief, did follow Mr. Brown as soon as he entered and made his way around the store, a Black customer

like Mr. Brown could not afford to legitimately purchase such expensive merchandise, and thus had to have been engaging in unlawful conduct such as credit card fraud.

64. Accordingly, Macy's personnel, upon information and belief, directed the three men in question, one of whom was later identified as an NYPD police officer, to stop, search, seize, question, arrest and detain Mr. Brown after he used his American Express credit card to purchase the watch he had picked out for his mother.

65. Upon information and belief, based on Macy's' false suspicion and identification of Mr. Brown as a credit card fraud suspect, the three men proceeded to stop, assault, batter, handcuff, falsely imprison, falsely accuse, unlawfully search, and later unlawfully detain Mr. Brown in a holding cell located inside Macy's – a room that can only be accessed by non-Macy's personnel pursuant to Macy's' consent and acquiescence.

66. During the time Mr. Brown was being falsely imprisoned inside this holding cell, the three men who had falsely arrested and detained Mr. Brown were joined by a fourth man, who also did not identify himself, but who later turned out to be a New York City Police Department Sergeant Lou Devirgilio.

67. The men then proceeded to search Mr. Brown's backpack, where they came across Mr. Brown's New York driver's license, Louisiana residency card, and other forms of identification. Despite the fact that the name on these various forms of identification matched the name on the American Express card, the men continued to vehemently accuse Mr. Brown's credit card as being fraudulent, even accusing Mr. Brown of producing false identification, and failing to take steps to verify the legitimacy of his credit card.

68. After much time had elapsed during this confinement, one of the men asked Mr. Brown to identify who he was. Mr. Brown proceeded to state that he worked as an actor, and



had appeared in numerous notable films and television shows. Hearing this information about Mr. Brown's employment and background appeared to jar the men, who were coming to the realization that they not only had falsely arrested, accused and imprisoned Mr. Brown, but that Mr. Brown was someone who would have both the means and notoriety to hold them accountable for their discriminatory and unlawful conduct.

69. The demeanor of the officers, particularly Sergeant Devirgilio, began to noticeably change. The men suddenly began to treat Mr. Brown civilly, and not as a common criminal deserving of having his civil rights trampled upon. Sergeant Devirgilio even began to engage in small talk with Mr. Brown, specifically asking him about neighborhoods in New Orleans, which is the city in which the television show Mr. Brown currently appears in on the HBO channel is shot and takes place.

70. Thereafter, as it became readily apparent that Mr. Brown was not just innocent, but that he was also a television and film personality, Mr. Brown was finally released from custody. Had Mr. Brown not been employed as a movie and television actor, but rather was just another Macy's shopper of color, Mr. Brown would likely have remained in custody for far longer and/or been falsely arrested and prosecuted for crimes he did not commit – a hallmark Macy's company-wide practice, policy and/or custom.

71. Had Mr. Brown not been a person of notoriety, he would have almost certainly been charged with committing some crime, and would have suffered the same fate as many similarly situated individuals who have been and are being forced to plead guilty to violations or accept Adjudgments in Contemplation of Dismissal, or ACDs, rather than have to expend significant resources and time in defending themselves against criminal actions through trial.

72. Moreover, Sergeant Devirgilio even transparently attempted to curry favor with Mr. Brown in an attempt to convince him to keep this unlawful ordeal under wraps by bizarrely offering to personally drive Mr. Brown to his mother's graduation in a police vehicle. However, at no point did Mr. Brown receive, nor has he ever received, an apology for being detained and falsely accused of credit card fraud, neither from the men who detained him, the NYPD, nor Macy's.

73. By the time he was finally released and able to go to his mother's graduation, the pride and joy which Mr. Brown had held just a few hours earlier had vanished, as he had become the victim of Macy's shocking, unlawful and discriminatory policies and practices which targets its customers of color.

74. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Mr. Brown, on the basis of his race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to White citizens, denied him the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied him the same right enjoyed by White citizens to hold property afforded him under federal civil rights laws, and conspired to deprive him of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

75. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Mr. Brown's federally and state protected civil rights. They have also subjected him to false imprisonment, assault and

battery, and harm resulting from Defendants' negligent hiring, training and supervision of security and other personnel.

76. Defendants' actions, as described herein, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

77. As a proximate result of the actions of Defendants, their agents and employees, as described above, Mr. Brown has suffered and continues to suffer irreparable loss and injury, including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of his civil rights. For these injuries, Mr. Brown seeks compensatory damages to the fullest extent permitted under the law.

78. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Mr. Brown and/or his federally protected rights, Mr. Brown also seeks punitive damages.

79. Security personnel at Macy's stores throughout the United States are continuing their unlawful treatment of African-American/Black, Hispanic, Asian and other non-White shoppers.

### **III. Allegations and Evidence of Other Victims of the Pattern and Practice**

80. Mr. Brown's was not the first incident of Macy's personnel violating the civil rights of its Black, Hispanic, Asian and non-White customers through its racist, company-wide policies and practices, but just one in a long line of similar ordeals which have taken place nationwide. The stories of several of these individuals of color who were targeted for suspected

criminal activity for no reason other than their race, some of whom bravely brought lawsuits against Macy's to remedy these injustices, demonstrate Macy's continuous and ongoing pattern and practice of subjecting its customers of color to unlawful and discriminatory racial profiling within its stores, are discussed below.

*A. The 2005 Consent Decree Between Macy's and New York's Attorney General*

81. In 2005, following an investigation into numerous complaints against Macy's of unlawful racial profiling by individuals of color, the New York State Attorney General's office commenced suit against Macy's, accusing it of having policies and practices that focused attention disproportionately on Black and Hispanic customers, with a disproportionate number of such customers subjected to surveillance, stops and/or questioning as compared to White customers. See People of the State of New York v. Macy's East, Inc., 05-cv-00368 (DLC) (S.D.N.Y.), filed Jan. 14, 2005.

82. The suit also accused Macy's of failing to adequately monitor its security employees, and prevent and remedy these unlawful practices.

83. Macy's was also accused of having handcuffing policies that had a disproportionate impact on Black and Hispanic individuals who were detained by Macy's for suspected shoplifting.

84. The suit also specifically referenced a survey conducted between 2000 and 2004 which found that the percentage of non-White customers detained by Macy's far exceeded the percentage of non-White customers that patronized Macy's, as well as surveys which revealed that the percentage of non-White customers arrested for shoplifting was far greater than the percentage of non-Whites arrested for petit larceny in the municipality in which particular Macy's stores were located or at comparator retail stores in those municipalities.

85. The suit further accused Macy's of excessive scrutiny and intrusive searches by Macy's security personnel after security alarms are triggered by Black and Hispanic customers, while White customers are allowed to leave the store when they trigger alarms.

86. As a result of the New York AG's investigation, Macy's entered into a Consent Decree, so ordered by United States District Court Judge Denise L. Cote. Under the terms of the Consent Decree, Macy's agreed to settle the claims brought by the State of New York for \$600,000.00, and to also reform its security policies and practices. However, the Consent Decree's terms, as well as the Court's supervision over them, were only to last for a three-year period.

87. Among other things, the Consent Decree required Macy's to:

- a. Employ a "Security Monitor" who would oversee an enhanced training program for security personnel, review, investigate and respond to customer complaints regarding Macy's security employees, and compile and evaluate data concerning security contact with customers;
- b. Maintain complete security records that fully, accurately and timely recorded instances when contact was made with customers by Macy's security personnel, and of customers detained for suspected criminal activity;
- c. Change its policies and practices with respect to handcuffing customers who are suspected of criminal activity, by basing such decisions of whether or not to handcuff someone after an individual assessment of a particular detainee;
- d. Ensure that normal processing of detainees not last more than one hour, and that detainees be allowed to make emergency phone calls while in detention;

- e. Cease the practice of coercing and attempting to coerce detainees into signing civil demand forms while in detentions;
- f. Conduct extensive training/retraining of its security employees regarding profiling; and
- g. Engage an outside auditor to conduct anonymous audits of certain Macy's stores to examine whether Macy's security personnel continue to subject customers of different races and/or ethnicities to different treatment as it relates to surveillance, questioning or detention for suspected shoplifting.

88. This court-ordered Consent Decree expired on or about January 18, 2008.

89. As evidenced by Macy's' continued treatment of people of color who enter its stores as second-class customers, including Plaintiff Brown and others discussed below, despite its agreement to abide by the terms and spirit of the Consent Decree, it is clear that Macy's has thumbed its nose at the Consent Decree, choosing instead to continue breaking the law by unlawfully profiling and targeting individuals of color.

***B. Abeer Almaalouf***

90. As alleged in the complaint in the action entitled Abeer Almaalouf, et al. v. Federated Department Stores, Inc., at al., 115826/2008 (N.Y. Sup. Ct.), filed on November 20, 2008, on December 20, 2007, Abeer Almaalouf, an adult female of Syrian descent, went to Macy's' Herald Square location. While waiting in line at the in-store McDonald's restaurant, Ms. Almaalouf was suddenly confronted by Macy's security personnel, who immediately confiscated Ms. Almaalouf's belongings, accused her of shoplifting, and physically forced her into a holding cell located in the store, where she was held for three hours.

91. There, Ms. Almaalouf suffered an asthma attack, but was not allowed to call her husband to let him know where she was, and to ask him to bring her medication. She was also subjected to racist comments from Macy's personnel.

92. Macy's security personnel even stole three hundred dollars (\$300.00) from Ms. Almaalouf's purse, and forced her to pay an additional five hundred dollars (\$500.00), under the guise that this amount would buy her freedom.

93. Despite finding no evidence of any shoplifting or other criminal activity, Macy's personnel had Ms. Almaalouf arrested and charged her with petit larceny and possession of stolen property.

**C. Rene Hughes**

94. As alleged in the complaint in the action entitled Rene Hughes v. Macy's East, LLC, et al., 09-cv-04710 (JGK) (S.D.N.Y.), filed January 11, 2010, on May 24, 2008, Rene Hughes, an African-American woman, exited Macy's' Herald Square location and attempted to enter a subway station. She was suddenly stopped and arrested by an NYPD police officer, who brought her back into the store.

95. She was then falsely accused of shoplifting by the police officer and Macy's personnel, and subject to a search. Macy's personnel and the NYPD officer also attempted to coerce Ms. Hughes into signing an agreement never to return to the store. Upon realizing no stolen items in Ms. Hughes' possession, she was finally released.

**D. Assetou Toure**

96. As alleged in the complaint in the action entitled Assetou Toure v. The City of New York, Macy's Inc., et al., 11-cv-01122 (DAB) (S.D.N.Y.), filed February 18, 2011, on the evening of June 3, 2008, Assetou Toure, a Black female, was shopping in Macy's' Herald

Square location when she was suddenly confronted by Macy's security personnel, accused of shoplifting, and pushed into an elevator. She was then brought to a room containing holding cells, and placed inside one of the cells.

97. Macy's security personnel then seized her belongings, including her money, cell phone, and diabetes medication, and refused to tell her why she was being detained. Ms. Toure at one point became unconscious as a result of a drop in her blood sugar level due to her apprehension and fear.

98. After being treated by paramedics, Macy's personnel refused to let Ms. Toure go, and instead had her arrested by NYPD officers and charged with petit larceny and criminal possession of stolen property, baseless charges which were ultimately dismissed.

*E. Ayla Gursoy*

99. As alleged in the complaint in the action entitled Ayla Gursoy v. Macy's Inc., et al., No. 110665/2011 (N.Y. Sup. Ct.), filed September 19, 2011, on the afternoon of September 18, 2010, Ayla Gursoy, a female of Turkish descent, was shopping in Macy's' Herald Square location when she was suddenly approached by Macy's security personnel and falsely accused of theft. Ms. Gursoy was then forced into the store's basement, where she was subjected to racist comments, and ordered to pay five hundred dollars (\$500.00) to secure her release.

100. When Ms. Gursoy refused to do so, she was subjected to a full body search, had her belongings confiscated, and had one hundred dollars (\$100.00) stolen from her purse by Macy's security personnel.

101. Ms. Gursoy was detained by Macy's security personnel for over four hours, after which she was handed over to NYPD police officers, and later charged with petit larceny and criminal possession of stolen property - baseless charges which were ultimately dismissed.



***F. Jamonica Michelle Ragesdale***

102. As alleged in the complaint in the action entitled Jamonica Michelle Ragesdale v. Macy's Department Store, et al., 11-cv-00033 (RHB) (W.D.Mich.), filed January 10, 2011, in the early afternoon of December 7, 2010, Jamonica Michelle Ragesdale, a female Black adult, exited a Macy's store in Kentwood, Michigan after shopping there, when she was suddenly approached by a Macy's security employee who demanded that he look inside the bag she was holding.

103. Ms. Ragesdale refused to open her bag, at which time the Macy's employee grabbed her arm and threw her down onto the ground, causing her two front teeth to be chipped, and scraping her right knee and left hand.

***G. Carmen Caba and Marlene Anthony***

104. As alleged in the complaint in the action entitled Carmen Caba and Marlene Anthony v. The City of New York, Macy's Inc., et al., 12-cv-02381 (KAM)(JMA) (E.D.N.Y.), filed May 14, 2012, on the evening of May 14, 2011, Carmen Caba and Marlene Anthony, two Hispanic women, went shopping at a Macy's store in Brooklyn, New York. After purchasing approximately thirteen hundred dollars (\$1300.00) in merchandise, Ms. Anthony and Ms. Caba were suddenly approached by eight Macy's security personnel who falsely accused them of shoplifting, and proceeded to unlawfully detain them.

105. Although Ms. Caba and Ms. Anthony were able to produce receipts that confirmed that their purchases were legal, Macy's security personnel nonetheless had NYPD police officers arrest the two women. The baseless charges against Ms. Caba and Ms. Anthony were later dismissed.

***H. Duddley Petigny***

106. As alleged in the complaint in the action entitled Duddeley Petigny v. Macy's Florida Stores, LLC, 13-cv-21020 (CMA) (S.D.Va.), filed March 21, 2013, on or about December 5, 2011, after shopping at a Macy's store in Aventura, Florida, Dudley Petigny, an adult African-American male, was about to exit the store when he was tackled by Macy's security personnel who wrongly suspected him of shoplifting.

107. Mr. Petigny was then frisked, and, after no stolen merchandise was found, was strip-searched by Macy's personnel, which again yielded no stolen items.

***I. Shaun Reid, Jeremiah Garner and Daniel Harrison***

108. As alleged in the complaint in the action entitled Shaun Reid, Jeremiah Garner and Daniel Harrison v. Macy's Inc., et al., 13-cv-00453 (TSE)(IDD) (E.D.Va.), filed April 12, 2013, on December 26, 2011, Shaun Reid, Jeremiah Garner, and Daniel Harrison, three adult African-American males, were shopping at a Bloomingdale's store in Woodbridge, Virginia, when they were suddenly approached by a Macy's employee who demanded that they hand over to her the items they had selected for purchase.

109. When the men declined, the Macy's employee began to berate the men, insisting that the items they had selected were too expensive for them, and that "black people steal."

110. As the three men continued to refuse to hand over their bags, Macy's employees prevented them from completing their purchases and ordered the men to leave the store, before calling the police on the men.

***J. Art Palmer***

111. As alleged in numerous publically accessible media accounts, on April 24, 2013, Art Palmer, an African-American male, purchased a number of items from the Macy's Herald Square location. Upon exiting the store, Mr. Palmer was stopped blocks away by four

undercover police officers, who suspected him of shoplifting and proceeded to search through his shopping bags.

112. Upon information and belief, this stop was made based upon information provided by Macy's employees.

113. Mr. Palmer was eventually allowed to leave after all of the items in his bags were accounted for.

***K. Richard Campbell and Samantha Bynoe***

114. As alleged in the complaint in the action entitled Richard Campbell and Samantha Bynoe v. Macy's, Inc., No. 160016/2013, (N.Y. Sup. Ct.), filed October 30, 2013, on or about September 24, 2013, Richard Campbell and Samantha Bynoe, two adult African-Americans, were shopping at a Macy's store located in Garden City, New York.

115. After they purchased items using a Macy's gift card and exited the store, Mr. Campbell and Ms. Bynoe were suddenly confronted by two Macy's employees who suspected them of shoplifting, and proceeded to aggressively stop them and confiscate the bags containing their purchases.

116. Mr. Campbell and Ms. Bynoe were then directed to return to the Macy's store, and taken to a back room where they were detained and had their Macy's and Bloomingdale's shopping bags rummaged through.

117. Mr. Campbell and Ms. Bynoe were eventually released after no stolen items were found.

***L. The New York Attorney General's Recent Letter to Macy's***

118. On October 28, 2013, the Office of the Attorney General of the State of New York sent a letter addressed to Defendant Sachse and Macy's, informing them that it had recently

received a number of complaints against Macy's by African-American individuals who were falsely accused of committing credit card fraud.

119. The letter stated that this string of similar complaints and incidents suggested a potential pattern of unlawful racial profiling of customers committed by Macy's.

120. The letter also reiterated how these new allegations of repeated, unlawful conduct by Macy's employees were troubling, particularly considering the 2005 court-ordered Consent Decree which required Macy's to cease engaging in racial profiling.

121. As such, it appears that the ordeals of those Macy's customers of color alluded to above are merely the tip of the iceberg, as potentially thousands of victims of Macy's unlawful, racially biased policies and practices have yet to speak out and stand up against Macy's.

122. This lawsuit seeks to give these individuals a voice.

#### **CLASS ACTION ALLEGATIONS**

123. Each allegation contained in paragraphs 1 through 122, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

124. Mr. Brown brings this class action on his own behalf and on behalf of a nationwide class, a New York state-wide class, and a New York City-wide class respectively, of innocent African-American/Black, Hispanic, Asian and other non-White persons who have been or are being targeted for suspicion of shoplifting, credit card fraud, or other acts of larceny, falsely accused of shoplifting, credit card fraud, or other acts of larceny, and subjected to Defendants' continuing pattern and practice of unlawful conduct on the basis of their race, national origin, ethnicity and/or color at Macy's stores located throughout the United States (the "Nationwide Class"), State of New York (the "New York State Class") and the City of New

York (the “New York City Class”) (the three classes are referred collectively as the “Class”) and/or such other definition of the classes as may be asserted following discovery.

125. This class action is brought pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure (hereinafter “Rule 23”).

126. The pattern and practice of civil rights violations, discrimination and other tortious conduct alleged in this Complaint has been carried out in Macy’s stores located throughout the United States by employees and agents of Defendants acting within the scope of their employment and upon the authority, directions, instructions, encouragement, and/or with the knowledge, acquiescence and ratification of Defendants and others.

127. Defendants’ pattern and practice constitutes a continuing violation of the rights of Plaintiff and the members of the respective classes he seeks to represent, and are ongoing.

128. While the exact number of Class members is unknown at this time, there are more than 800 Macy’s stores located throughout the United States that detain thousands of persons of color who are alleged to be shoplifting, committing credit card fraud, or other acts of larceny each year. The number of Class members affected by Defendants’ unlawful policies and practices is so numerous as to make joinder of all members impracticable. The number of Class members is incapable of precise determination at this time, but is significant and satisfies the numerosity requirement of Rule 23.

129. There are questions of law and fact that are common to the Class and that affect the rights of all members of the Class. These common questions of law and fact predominate over any questions solely affecting any individual.

130. Among the questions of law and fact common to the Class are:

- a. whether the policies, practices and actions of Defendants denied Class members the right, on the basis of their race, national origin, ethnicity and/or color, to make

and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to White citizens, in violation of 42 U.S.C. § 1981;

- b. whether Defendants' policies, practices and actions denied Class members the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens, in violation of 42 U.S.C. § 1981;
- c. whether the policies, practices and actions of Defendants denied Class members the same right to hold property as is enjoyed by White citizens, in violation of 42 U.S.C. § 1982;
- d. whether Defendants have engaged in a conspiracy to deprive Class members of the equal protection of the laws and/or the equal privileges and immunities under the laws as are enjoyed by White citizens, in violation of 42 U.S.C. § 1985(3);
- e. whether Defendants' policies, practices and actions subjected the New York State Class members to false imprisonment, assault and battery, harm resulting from Defendants' negligent hiring, training and supervision of security personnel and others, and violations of the New York State Human Rights Law ("NYSHRL") and New York Civil Rights Law ("NYCRL");
- f. whether Defendants' policies, practices and actions subjected the New York City Class members to unlawful violations of the New York City Human Rights Law ("NYCHRL");
- g. whether Defendants' policies, practices and actions disproportionately cause Class members to: (i) be suspected of wrong doing with no or insufficient probable cause; (ii) be more likely to be placed into handcuffs; (iii) have a lower likelihood of having their pleas of innocence be considered; (iv) be more likely to be paraded around Macy's stores in a humiliating and degrading fashion; and (v) be disproportionately accused of and formally charged with committing crimes that they did not commit; and
- h. whether Defendants policies, practices and actions disproportionately cause Class members to be treated like common criminals, such as by being placed in holding cells against their will, while their person and possessions are searched without a legal basis to do so.

131. Mr. Brown' claims are typical of the claims of the members of the Class.

132. Mr. Brown will fairly and adequately represent the interests of the Class and has retained skilled and competent counsel who are experienced in class action civil rights litigation.

133. Defendants have acted on grounds generally applicable to the Class, as described above, making final injunctive and declaratory relief appropriate.

134. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. There will be no difficulty in the management of this action as a class action.

135. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, manifests Defendants' Class-wide civil rights violations, discrimination and other tortious conduct. Through these actions, Defendants denied Class members, on the basis of their race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship, on the same basis as White citizens; denied Class members the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens; denied Class members the same right enjoyed by White citizens to hold and maintain property; and conspired to deprive Class members of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

136. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton, and reckless disregard for the federally protected civil rights of Class members.

137. Defendants have also subjected Class members to false imprisonment, assault and battery, harm from negligent hiring, training and supervision of security and other personnel, and to violations of the NYSHRL, NYCRL, and NYCHRL.

138. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct against Class members. Defendants knew or should have known that their actions, as described above, were in violation of law.

139. As a proximate result of the actions of Defendants, their agents, and their employees, as described above, Class members have suffered and continue to suffer irreparable loss and injury, including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of their civil rights. For these injuries, members of the Class will be seeking compensatory damages to the fullest extent permitted under the law.

140. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for the Class members and/or their federally protected rights, members of the Class also will be seeking punitive damages.

**COUNT ONE**  
**(Violation of 42 U.S.C. Section 1981 - Contract Clause (On Behalf of Plaintiff and the Nationwide Class))**

141. Each allegation contained in paragraphs 1 through 140, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

142. By the actions described above, among others, Defendants have denied Mr. Brown and Class members, on the basis of their race, national origin, ethnicity and/or color, the same right to make and enforce contracts, including the enjoyment of all benefits, privileges, terms, and conditions of a contractual relationship as is enjoyed by White citizens of the United States, in violation of 42 U.S.C. § 1981.



143. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT TWO**  
**(Violations of 42 U.S.C. Section 1981- Equal Benefits Clause (On Behalf of Plaintiff and the Nationwide Class))**

144. Each allegation contained in paragraphs 1 through 143, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

145. By the actions described above, among others, Defendants have denied Mr. Brown and Class members, on the basis of their race, national origin, ethnicity and/or color the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens, in violation of 42 U.S.C. § 1981.

146. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT THREE**  
**(Violation of 42 U.S.C. Section 1982 (On Behalf of Plaintiff and the Nationwide Class))**

147. Each allegation contained in paragraphs 1 through 146, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

148. By the actions described above, among others, Defendants have denied Mr. Brown and Class members, on the basis of their race, national origin, ethnicity and/or color, the same right to hold personal property as is enjoyed by White citizens of the United States, in violation of 42 U.S.C. § 1982.

149. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT FOUR**

**(Violations of 42 U.S.C. Section 1985(3) (On Behalf of Plaintiff and the Nationwide Class))**

150. Each allegation contained in paragraphs 1 through 149, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

151. By the actions described above, among others, Defendants have engaged in a conspiracy to deprive Mr. Brown and Class members, on the basis of their race, national origin, ethnicity and/or color, of the equal protection of the laws and/or the equal privileges and immunities under the laws, as are enjoyed by White citizens, in violation of 42 U.S.C. § 1985(3).

152. At all times relevant hereto, there has been a corrupt agreement between and among all Defendants and others to deprive African-American/Black, Hispanic, Asian and other non-White persons of the equal protection of the laws and/or the equal privileges and immunities under the laws, including but not limited to the protections, privileges and immunities afforded them under 42 U.S.C. §§ 1981 and 1982.

153. Defendants have engaged in overt actions in furtherance of their conspiracy, including but not limited to engaging in, authorizing, directing, acquiescing in and/or ratifying a pattern and practice of racial profiling and targeting Class members for suspicion and false accusations of shoplifting, credit card fraud and other acts of larceny; adopting and implementing policies and practices that violate Class members' civil rights; attempting to coerce false confessions and unjustified monetary payments from Class members; and conspiring with the NYPD and other local police departments to unlawfully stop, search, seize, question and/or arrest Macy's customer of color disproportionately as compared to White customers for suspected shoplifting, credit card fraud and other acts of larceny.

154. Defendants' actions in furtherance of their conspiracy have injured Class members in their person and/or property, and/or have deprived them, on the basis of their race,

national origin, ethnicity and/or color, of the same rights as are enjoyed by White citizens, including but not limited to the civil rights protected under 42 U.S.C. §§ 1981 and 1982.

155. Defendants intentionally engaged in such actions in furtherance of their conspiracy with a racial and/or class-based, invidiously discriminatory animus.

156. As a result of Defendants' conspiracy in violation of 42 U.S.C. § 1985(3), Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT FIVE**  
**(Violations of the NYSHRL (On Behalf of Plaintiff and the New York State Class))**

157. Each allegation contained in paragraphs 1 through 156, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

158. By reason of the foregoing, Defendants have violated New York Executive Law § 296, *et seq.*, also known as the New York State Human Rights Law (the "NYSHRL"), which states that places of public accommodation cannot deny any of the "accommodations, advantages, facilities or privileges thereof" based on a person's race or national origin.

159. The conduct of Defendants in subjecting innocent African-American/Black, Hispanic, Asian and other non-White shoppers to disproportionate stops, questioning and detention at Macy's stores than of White shoppers has denied them the privileges of public accommodation based on their race and/or national origin.

160. Defendants' policies and practices have had a disparate impact on innocent African-American/Black, Hispanic, Asian and other non-White shoppers, and have subjected innocent African-American, Hispanic, Asian and other non-White shoppers to disparate treatment.

161. Defendants and Defendants' employees and/or agents have discriminated against innocent African-American/Black, Hispanic, Asian and other non-White Macy's shoppers.

162. Defendants have failed to monitor its employees and/or agents adequately and therefore are responsible for their conduct.

163. Defendants have thereby violated the NYSHRL.

164. As a result of Defendants' unlawful conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT SIX**

**(Violations of the NYCRL (On Behalf of Plaintiff and the New York State Class))**

165. Each allegation contained in paragraphs 1 through 164, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

166. By reason of the foregoing, Defendants have violated New York Civil Rights Law § 40, which prohibits places of public accommodations from "withhold[ing] from or deny[ing] to any person any of the accommodations, advantages, facilities or privileges thereof" based on a person's race or national origin.

167. The conduct of Defendants in subjecting innocent African-American/Black, Hispanic, Asian and other non-White shoppers to disproportionate stops, questioning and detention at Macy's stores than of White shoppers has denied them the privileges of public accommodation based on their race and/or national origin.

168. Defendants' policies and practices have had a disparate impact on innocent African-American/Black, Hispanic, Asian and other non-White shoppers, and have subjected innocent African-American/Black, Hispanic, Asian and other non-White shoppers to disparate treatment.

169. Defendants and Defendants' employees and/or agents have discriminated against innocent African-American, Hispanic, Asian and other non-White Macy's shoppers.

170. Defendants have failed to monitor its employees and/or agents adequately and therefore are responsible for their conduct.

171. Defendants have thereby violated the New York Civil Rights Law § 40.

172. As a result of Defendants' unlawful conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

#### **COUNT SEVEN**

#### **(Violations of the NYCHRL (On Behalf of Plaintiff and the New York City Class))**

173. Each allegation contained in paragraphs 1 through 172, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

174. By reason of the foregoing, Defendants have violated the New York City Human Rights Law, N.Y.C. Admin. Code § 8-1047(4) (the "NYCHRL"), which states that it is an unlawful discriminatory practice for a place of public accommodation to "refuse, withhold from or deny any of the accommodations, advantages, facilities or privileges thereof" to any person because of their race, color and/or national origin.

175. The conduct of Defendants in subjecting innocent African-American/Black, Hispanic, Asian and other non-White shoppers to disproportionate stops, questioning and detention at Macy's stores than of White shoppers has denied them the privileges of public accommodation based on their race and/or national origin.

176. Defendants' asset protection and security policies and practices have had a disparate impact on innocent African-American/Black, Hispanic, Asian and other non-White shoppers, and have subjected innocent African-American/Black, Hispanic, Asian and other non-White shoppers to disparate treatment.

177. Defendants and Defendants' employees and/or agents have discriminated against innocent African-American/Black, Hispanic, Asian and other non-White Macy's shoppers.

178. Defendants have failed to monitor its employees and/or agents adequately and therefore are responsible for their conduct.

179. Defendants have thereby violated the NYCHRL.

180. As a result of Defendants' unlawful conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT EIGHT**

**(False Imprisonment (On Behalf of Plaintiff and the New York State Class))**

181. Each allegation contained in paragraphs 1 through 180, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

182. Defendants had no reasonable cause to believe that Mr. Brown and other Class members had engaged in credit card fraud or any other kind of misconduct at Macy's prior to their false imprisonment.

183. There is no legal justification for Defendants' non-consensual detention of Mr. Brown and other members of the Class in a confined space, Defendants' refusal to allow them to leave the detention area and/or Defendants' physically preventing them from leaving the detention area.

184. Defendants physically restrained Mr. Brown and other Class members for long periods of time without their consent and against their will.

185. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT NINE**

**(Assault and Battery (On Behalf of Plaintiff and the New York State Class))**

186. Each allegation contained in paragraphs 1 through 185, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

187. By their actions, Defendants intentionally placed Mr. Brown and other Class members in fear of imminent and offensive bodily contact and/or wrongfully subjected them to offensive physical contact without their consent.

188. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**COUNT TEN**  
**(Negligent Hiring, Training and Supervision (On Behalf of Plaintiff and the New York State Class))**

189. Each allegation contained in paragraphs 1 through 188, inclusive, is hereby repeated, realleged and incorporated by reference, as if fully set forth herein.

190. In hiring and supervising security personnel, Defendants have a duty to prevent such personnel from engaging in discriminatory, tortious and/or otherwise unlawful conduct.

191. Defendants negligently and/or recklessly failed to satisfy their duty of care in hiring, supervising and retaining personnel that engaged in and continue to engage in a pattern and practice of civil rights violations, discrimination and other tortious conduct.

192. Defendants knew or should have known that the security personnel at Macy's have engaged in racial profiling and subjected African-American/Black, Hispanic, Asian and other non-White shoppers to civil rights violations, false imprisonment, harassment, verbal abuse, insults, humiliation, coercion and physical intimidation based on their race, national origin, ethnicity and/or color.

193. Defendants also knew or should have known that their policies and practices have created an unreasonable risk of civil rights violations, discrimination and other unlawful conduct that would harm people of color.

194. As a result of Defendants' conduct, Mr. Brown and Class members have suffered and continue to suffer injuries and damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff and the Class members pray that the Court grant them relief as follows:

- (a) Certify this case as a class action under Rule 23;
- (b) Enter a declaratory judgment finding that the actions of Defendants alleged in this Complaint violate 42 U.S.C. §§ 1981, 1982 and 1985(3), the NYSHRL, the NYCRL, and the NYCHRL;
- (c) Enter a permanent injunction enjoining Defendants from continuing to engage in the civil rights violations, discrimination and other unlawful conduct alleged in this Complaint;
- (d) Enter a permanent injunction directing that Defendants take all affirmative steps necessary to remedy the effects of the civil rights violations, discrimination and other unlawful conduct alleged in this Complaint and to prevent repeated occurrences in the future;
- (e) Award compensatory damages in an amount that would fully compensate Mr. Brown and other Class members, plus prejudgment interest, for the economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical injury, emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life and interference with life's daily activities, as well as continued stress and anxiety, caused by Defendants' violations of the law alleged in this Complaint, in an amount to be determined at trial;
- (f) Award punitive damages to Mr. Brown and other Class members in an amount that would punish Defendants for the willful, wanton, and reckless misconduct alleged in this



Complaint that would effectively deter Defendants from future civil rights violations, discrimination, and other unlawful behavior, in an amount to be determined at trial;

(g) Award Mr. Brown and other Class members their reasonable attorneys' fees, the fees and costs of experts, and costs of this action; and

(h) Order all other relief deemed just and equitable by the Court.

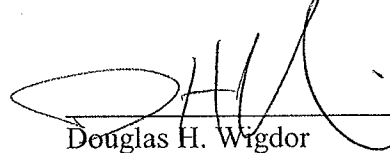
**JURY DEMAND**

Plaintiff demands a trial by jury on all issues of fact and damages.

New York, New York  
Dated November 13, 2013

Respectfully Submitted,

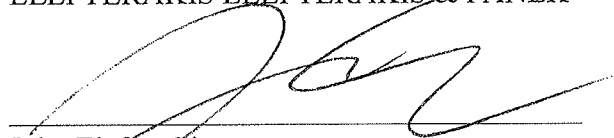
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