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*Attorney for Plaintiff*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ANTHONY F. NIMMONS,

*Plaintiff,*

- against -

THE UNITED STATES TENNIS ASSOCIATION,  
FRANCIS GILBERT *and* BRUCE LITTRELL,  
*jointly, severally or in the alternative,*

*Defendants.*

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**COMPLAINT**

Case No.: 18-cv-02499

JURY TRIAL DEMANDED

Plaintiff, ANTHONY F. NIMMONS, by his attorney, Gary E. Ireland, alleges upon information the following:

**PRELIMINARY STATEMENT**

1. Plaintiff, Anthony Nimmons, brings this action pursuant to federal, New York State and New York City anti-discrimination laws.
2. This is an action for relief seeking damages for illegal discriminatory conduct and a prayer for relief seeking among other things, that the City of New York, and/or this Honorable Court, *sua sponte*, grant an immediate restraining order against the United States Tennis Association (“USTA”) forbidding the organization from engaging in further unlawful race discrimination against its workers - including but not limited to, African Americans and

other People of Color - on any City property, particularly at the Billie Jean King National Tennis Center (“BJK-NTC”) in New York City, and that protective organizations and methods, such as a union or association, be implemented to ensure the end of the ongoing discrimination at the USTA.

3. “Tennis Whites Only” is an age-old dress-attire rule long associated with the USTA. Unfortunately, while that rule largely gave way to the progress of the sport, it also accurately describes a racist mantra within the organization in the hiring and promotion of African-American umpires and other employees.
4. As background, upon information and belief, the USTA directly and indirectly governs top professional tennis within the United States, essentially holding a monopoly on the sport. The USTA is well-known for its tony tennis “Grand Slam” event in New York City. Some of the best-known African-American and female tennis players earned their fame and good fortune not only through their talent and epic battles on the court, but also by waging war against race and gender discrimination condoned by the USTA. A simple Google search reveals much about the racist legacy in tennis and by the USTA.
5. While the USTA publicly pays lip service to these player-warriors, and its critics, by constructing memorials in our New York City public parks, such as the Arthur Ashe Stadium and a statue of his likeness in front of the Billie Jean King National Tennis Center (“BJK-NTC”), it nonetheless lacks such conviction and maintains the “tennis whites only” rule when it comes to its top levels of workers and employees at the organization. Despite the international prominence of this world-class “Grand Slam” event, the US Open, the USTA persists in its long and unapologetic history of discrimination and racism. Rather than address this abhorrence through the appointment of independent investigators, or

implementation of a union of association to protect workers, the USTA is also legendary for its merciless and long history of retaliation against those who complain.

6. Anthony Nimmons (“Mr. Nimmons” or “Plaintiff”) started as a tennis umpire with the USTA in 1994. He is an African-American male.
7. According to an article about Mr. Nimmons, formerly featured on the USTA website, *“Tony is now considered one of the top chair umpires in the world...” “He is an important contributor to the USTA Officials Department when it comes to training, recruiting and retaining officials.”*
8. However, once Plaintiff informed the USTA of concerns of racism and discrimination, and he asked them to have someone with experience working with the attorney general or the Equal Employment Opportunity Commission (“EEOC”) to investigate his claims, he was himself further discriminated against by USTA management, marginalized and ultimately forced to leave his career.
9. While he rose through the ranks as a celebrated umpire and USTA employee, Mr. Nimmons became acutely aware of the “tennis whites” policy and practice by its management.
10. Following a lengthy investigation by the Office Attorney General of the State of New York (“OAG”), and a finding of race and gender discrimination in violations of federal, state and New York City laws and, in fact, “repeated and persistent violations of these statutes” by the USTA, Mr. Nimmons was hired full-time as the Officiating Pathway Coordinator (“Coordinator”), working in areas including promoting diversity and inclusion in the organization, both nationally and internationally. Soon after his appointment, Mr. Nimmons was notified by USTA management that he had, in fact, been hired for that position directly in response to the OAG investigation and its unchallenged findings of racism and sexism,

and because management hoped that by hiring Mr. Nimmons the USTA would gain favor with the Attorney General.

11. After a full investigation, the EEOC concluded:

**Credible evidence confirms that Charging Party [Nimmons] was discriminated against on the basis of his race. The Commission's investigation reveals that Charging Party was repeatedly subjected to disparaging comments that were targeted specifically at him because of his race. Respondent [USTA] failed to take effective remedial action in response to Charging Party's complaint of discrimination. Each disciplinary action Charging Party received after every discrimination complaint appears to be retaliatory in nature.**

12. To quote Mr. Nimmons in his effort to explain what is happening at the USTA and to solicit support from elected officials:

Like many other African Americans, women and other minorities, the USTA has treated me badly because of who I am, the color of my skin. In addition to the daily abuse that I never saw Caucasian male employees experience, I was called a "monkey". I was told to return to the "ghetto." I even heard and reported to the USTA that a hangman's noose hung near the desk of another African-American employee at the Billie Jean King National Tennis Center. Rather than call the police or bring back the Attorney General to investigate this ongoing racism, I understand the USTA did nothing.

In response to my pleas to end the race discrimination against me and conduct an independent investigation, I was stripped of my work – including my diversity duties and travel to the Grand Slams tennis tournaments (*e.g.*, the Australian Open, French Open-Roland Garros, Wimbledon and the US Open), to promote diversity, and where I had otherwise officiated with approval for decades.

I was further retaliated against and transferred to a job as a video editor without any training. Many African Americans or women at the USTA who have complained of discrimination have either been terminated or have been so abused that they quit. Few minorities are willing to risk being kicked out of tennis and have to endure the racism and other discrimination. Myself, when I complained, I was forced out of tennis by USTA management.

The US Open is the most lucrative sporting event in the United States, and the most well-attended annual sporting event in the world. The prize money at the US Open totals \$50.4M and it is estimated that the USTA may gross up to 10 times that amount from attendance at the event, as well as lucrative

endorsements and television rights. According to my review on the internet, NFL Referees earned \$173,000 per season in 2013; NBA referees earn between \$150,000 to \$550,000 annually; Major League Umpires earn anywhere from \$120,000 to \$350,000 per year. Those other umpires and referees all have unions or associations to protect the workers from discrimination. They also receive other benefits. In contrast, tennis umpires earn about \$150 per day, without any tangible benefits and they lack any union to protect them from discrimination. To make matters worse, when I and others complained about racism and gender inequality in the organization, the USTA responded by hiring foreign umpires to take our jobs. I was even warned by an internal attorney with the USTA that the organization buries the workers who complain in paper. True to form, it has been nearly four years since I filed formal written complaints and, despite a finding by the EEOC that I was in fact “discriminated against on the basis of race,” I am out of tennis.

I love tennis and want my job back at the USTA. I am currently asking all our elected officials to demand that the USTA end discrimination and help us earn a living wage and enforce standards of decency and anti-discrimination laws, either through the adoption of a union, association or by some other means, just like other professional sports umpires and referees. I am further asking for New York City to request an immediate injunction to end the discrimination by the USTA. If the USTA is unwilling to end discrimination, I am asking that New York City end the relationship with the organization. There are other entertainment/sports organizations able to both host an international tennis tournament and treat workers fairly.

### **NATURE OF THE CASE**

13. This employment discrimination and retaliation action is brought against defendants the United States Tennis Association, Francis Gilbert and Bruce Littrell (collectively USTA, Gilbert and Littrell may be referred to as the “Defendants”), pursuant to 42 U.S.C. §§1981 (Civil Rights Act of 1866), *et seq.* [including but not limited to the Civil Rights Act of 1991] (“Section 1981”); Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* (“Title VII”); New York State Human Rights Law §§290, *et seq.* (“NYSHRL”); and the New York City Human Rights Law, New York City Administrative Code §§8-101, *et seq.* (“NYCHRL”).
14. Mr. Nimmons has no other remedy or recourse but to file this action against Defendants

who have intentionally failed, or consciously avoided, investigating the many incidents of racial discrimination and retaliation against the Plaintiff and continued their campaign to discriminate and retaliate against him.

15. Plaintiff reported discrimination to management and was retaliated against and stripped of his duties and responsibilities.
16. Further, Plaintiff has been repeatedly demoted, verbally abused by those using racial slurs and innuendo to such an extent that he had to receive medical attention. The USTA then constructively terminated him in retaliation for filing discrimination complaints.
17. Such actions condoned or undertaken by the USTA clearly violate Plaintiff's civil rights.
18. Such illegal conduct should no longer be overlooked or tolerated by the tennis community or the City of New York, which permits the USTA to host the U.S. Open tennis tournaments – with revenues totaling billions of dollars – on its property every summer.

### **JURISDICTION AND VENUE**

19. This Court has original subject-matter jurisdiction over the Title VII claims under 28 U.S.C. §§1331 and 1343, because they arise under the laws of the United States and are brought to recover damages for deprivation of equal rights.
20. This court has supplemental subject-matter jurisdiction over the NYSHRL and NYCHRL claims under 28 U.S.C. §1367, because the actions and claims raised herein arise from a common nucleus of operative facts with the federal claims, and are so related to the federal claims as to form part of the same case or controversy under Article III of the United States Constitution.
21. Venue is proper in this judicial district under 28 U.S.C. §1391(b) and (c) and 42 U.S.C. §2000e-5(f)(3), because Defendants work, have offices, conduct business, and can be found

in this District, and the causes of action arose and many of the acts and omissions complained of occurred within the district.

PROCEDURAL BACKGROUND AND EXHAUSTION OF REMEDIES

22. Plaintiff has exhausted all administrative remedies and complied with all statutory prerequisites to his Title VII claims.

23. On January 15, 2015, Mr. Nimmons filed a complaint with the Equal Employment Opportunity Commission (“EEOC”). A copy of the January 15, 2015 complaint to the EEOC (“EEOC Complaint”) is attached hereto and incorporated by reference herein as Exhibit A.

24. In or about November 16, 2015, Mr. Nimmons filed a supplemental, amended EEOC Complaint (“Amended EEOC Complaint”). An unsigned copy of the Amended EEOC Complaint is attached hereto and incorporated by reference herein as Exhibit B.

25. On July 15, 2016, Mr. Nimmons, through his attorney, filed a letter in support of his discrimination and retaliation claims. A copy of the July 15, 2016 letter EEOC investigators Emily Haimowitz and Gwendolyn Hoy is attached hereto, with attachments, as Exhibit C.

EEOC PROBABLE CAUSE DETERMINATION

26. After an investigation lasting about two-and-one-half years, the EEOC issued a Determination of Probable Cause concluding that “Credible evidence confirms that Charging Party (Nimmons) was discriminated against on the basis of his race.” (“EEOC Determination”). Exhibit D.

27. On January 30, 2018, the EEOC issued a Right to Sue Letter. Exhibit E.

28. Contemporaneously with the filing of these Complaints, Plaintiffs have mailed copies of the same to the New York City Commission on Human Rights and the Office of the

Corporation Counsel of the City of New York, thereby satisfying the notice requirements of §8-502 of the New York City Administrative Code.

29. All other prerequisites to the filing of this suit have been met.

### **PARTIES**

#### **PLAINTIFF ANTHONY NIMMONS**

30. Plaintiff Anthony Nimmons is an African-American male who resides in Queens, New York. Mr. Nimmons is a citizen of the United States. From about April 1994 until about May 2016, Plaintiff worked for the USTA.

31. From about March 2009, Plaintiff was employed by Defendant USTA and was an “employee” as defined under the applicable statutes.

#### **DEFENDANTS USTA, FRANCIS “SKIP” GILBERT AND BRUCE LITTRELL**

32. At all relevant times, Defendant USTA, which maintains offices at the Billie Jean King Tennis Center in Flushing Meadows, New York, was and is an employer engaged in an industry affecting interstate commerce with fifty (50) or more employees for each working day in each of twenty (20) or more calendar weeks in any given year. Accordingly, the USTA meets the definition of “employer” under all applicable statutes.

33. During the period from about April 14, 2014, until Plaintiff was constructively discharged in about May 2016, Defendant Gilbert was a supervisor for Plaintiff and a management employee with the USTA.

34. During the period from around summer of 2014, until Plaintiff was constructively discharged, Defendant Littrell was a supervisor for Plaintiff and a management employee with the USTA.



### **FACTUAL ALLEGATIONS**

35. Mr. Nimmons started working for the USTA as a tennis umpire in or about April 1994.
36. Plaintiff worked full-time for the USTA as an Officiating Coordinator since 2009.
37. As background, part of Plaintiff's job description was to "Travel to USTA Events, educational programs and section offices..." and to maintain "current Officiating-badge status" with International Tennis Federation ("ITF").
38. The USTA promotes umpires it favors to the ITF, controlling who receives Badge Certification, with Gold, Silver and Bronze being the top three certifications. In theory, having a Gold Badge enables an umpire to officiate the best matches in tennis. In practice, such umpires are often excluded due to their race.
39. During his employment, Plaintiff was a Silver Badge official. In fact, the USTA Director of Officials-US Open Chief Umpire referred to Plaintiff as a "top chair umpire(s) in the world."
40. Plaintiff understandably believed, and was told, that USTA management would recommend and support him so that he could earn a Gold Badge. The USTA routinely recommends, and successfully promotes, Caucasian employees for ITF Badges.
41. In or about, October 2014, Mr. Nimmons became the Officiating Pathway Coordinator ("Coordinator").
42. In his position at the USTA, Plaintiff was responsible for, among other things, promoting diversity and equality at the organization on a national level, and even internationally.
43. The USTA has a long track record of discriminating against employees and workers based on age, race, gender and sexual orientation. It is also known to retaliate against employees by terminating their employment after they file complaints.

44. Soon after Plaintiff was hired by the USTA as Coordinator, in about March of 2009, the Chief of Diversity informed Nimmons that he had been hired in response to the OAG investigation finding that the USTA had engaged in the illegal practices of racism and sexism, particularly in hiring and promoting.
45. At the time Plaintiff was hired, he was also told that he was to work to promote diversity and inclusion in his capacity as an Coordinator and umpire for the organization.
46. He was further notified by USTA management that he would have the opportunity to earn a Gold Badge, the highest rank for an on-court tennis official in tennis, so that he could officiate the highest-level matches, including at the United States Open.
47. He was told that his presence at high-level matches, including the US Open, would make the USTA “look good” for the OAG and to help the organization comply with an agreement it had with the OAG.
48. Unfortunately, despite federal, state and NYC laws, and a consented-to agreement with the OAG, the USTA continues to discriminate against African Americans, females and other minority workers.
49. Throughout his tenure working at the USTA, Plaintiff was informed by management and even representatives from private clubs that he should be cautious in his role working for the USTA and not challenge Caucasian supervisors and others, lest he be punished.
50. Despite those warnings, Plaintiff complained on numerous occasions to his then supervisor, Rich Kaufman (“Kaufman”), about the discriminatory treatment he experienced at the USTA. Kaufman ignored his complaints and sometimes cautioned Plaintiff to remain quiet.
51. In fact, on one occasion, when Plaintiff noted to Kaufman that a Caucasian umpire was officiating the late-round matches at the US Open, instead of Plaintiff or another equally-

qualified minority or female umpire, Kaufman warned Plaintiff, stating, “which would you rather do, have a job or officiate the finals at the US Open?”

52. There were many discriminatory injustices Plaintiff endured in order to continue in his mission as Coordinator, and to keep his job.

53. Because of the long history of retaliation against minorities and females who have attempted to file complaints against the USTA, almost no minorities or women complain of discrimination, despite its rampant presence. They fear that they will be retaliated against and blackballed from tennis.

FRANCIS GILBERT BECOMES MR. NIMMONS’ SUPERVISOR AND TARGETS  
PLAINTIFF FOR DISCRIMINATION

54. In or about April 2014, Francis “Skip” Gilbert (“Gilbert”) became Plaintiff’s direct supervisor.

55. Upon information and belief, Gilbert was hired by the USTA after the USA Triathlon terminated his employment for alleged ethical violations.

56. Soon after Gilbert became Mr. Nimmons’ supervisor, he began to discriminate against Plaintiff.

57. Such discrimination included diminishing Plaintiff’s duties and the status of his employment at the USTA. Gilbert undermined Plaintiff’s authority and humiliated him in front of other USTA employees, as well as employees and members of private clubs. Gilbert directed Plaintiff not to travel to events for which he was otherwise qualified to umpire, repeatedly threatened to fire Mr. Nimmons, removed him from meetings and omitted Mr. Nimmons from critical correspondence necessary to do his job.

58. In one instance, Gilbert specifically removed Plaintiff from a sports officiating summit that Mr. Nimmons had helped organize in New Mexico. Plaintiff was even scheduled to deliver

a presentation at the event.

59. In efforts to mock and humiliate Plaintiff, Gilbert even made disparaging remarks to other employees about Plaintiff's physical appearance and the natural deepness of his voice.

60. Defendant Gilbert also gave Plaintiff an unfair negative performance evaluation.

61. Plaintiff never observed Gilbert treating any Caucasian employee of any rank in a similar, discriminatory, and negative way.

PRIOR TO FILING COMPLAINTS, PLAINTIFF OFFICIATES THE GRAND SLAMS AND OTHER SIGNIFICANT EVENTS INCLUDING SOME TWENTY (20) CONSECUTIVE US OPEN TOURNAMENTS

62. Prior to filing the internal complaints with the USTA and the EEOC Charge of discrimination, Plaintiff had worked at some of the most prestigious tournaments in the world, including all the Grand Slam tennis events and World Group, Davis Cup Ties, the Australian Open, French Open, Wimbledon, and twenty (20) consecutive US Open tournaments at the BJK-NTC.

63. In addition, Plaintiff spoke on behalf of the USTA and educated other officials, staff and the public about tennis, including about issues concerning diversity.

64. Plaintiff was also proud of helping to found the Officials Inclusion Council ("OIC") in 2009, with the support of the USTA. The OIC was created to recruit, retain and promote tennis officials with a focus on minority officials.

AFTER FILING DISCRIMINATION COMPLAINTS, PLAINTIFF WAS BANNED FROM TRAVELING TO, AND SPEAKING AT EVENTS

65. After filing complaints of discrimination, Plaintiff was not permitted to perform many of the duties he was hired to do, including officiate significant tennis matches, tour to promote tennis or continue with the OIC.

66. Upon information and belief, other African-American umpires have similarly been demoted from a higher badge status to a lower badge status and received less work after filing complaints of discrimination against the USTA.
67. Since filing both internal complaints with the USTA and the discrimination and retaliation complaints with the EEOC, USTA management banned Plaintiff from traveling to tennis events or speaking on behalf of the USTA. Since filing the EEOC charge on January 28, 2015, Plaintiff was stripped of diversity work, has not spoken at USTA events and management even excluded him from meetings in the office.
68. As a result of being excluded from tennis events by the USTA, Plaintiff was not able to maintain his status as Silver Badge Chair Umpire. Given that the USTA had referred to Plaintiff as one of best umpires in the world, he had understandably hoped to earn a Gold Badge. Rather, he has been stripped his Silver Badge.

USTA OFFICIALS AND AGENTS MAKE RACIST REMARKS, USTA MANAGEMENT DOES NOTHING

69. Throughout his career, Plaintiff has endured many racist remarks, often made by USTA officials or management.
70. Below is a list of just some of the hurtful comments reported to the USTA:
- a. During the 2013 US Open in New York City, a Caucasian USTA umpire, said, “Hey Tony, if you were a hungry monkey and I told you there was a watermelon in the tree – go get it! How would you feel?”
  - b. At a USTA Challenger event in Dallas, Texas in 2012, a Caucasian umpire yelled, “Tony, you should go back to the ghetto!” This same Caucasian umpire yelled, “Run nigger, Run!” while watching a track meet. Unfortunately, even after so many complaints of racism, Plaintiff personally heard his manager, Bruce Littrell, say of

the same Caucasian umpire, that he, “is a good person and he deserves to be at the US Open.”

- c. At a USTA Challenger in Sacramento, CA in 2010, a Caucasian player yelled, “Schwarze scheisse!”, which means “Black S\*it” in German. *See* <https://www.google.com/search?q=Schwarze+scheisse+translation+in+English&ie=utf-8&oe=utf-8>

71. The USTA generally refuses to remove, or even reprimand, racist players or officials.

72. After each one of these incidents and on numerous other occasions, Plaintiff filed complaints.

73. To Plaintiff’s knowledge, USTA management did nothing to stop the racist comments and behavior, or even contacted him to follow up on his allegations. Plaintiff was retaliated against by USTA management for filing these and other complaints.

GILBERT DISAVOWS THE FINDINGS BY THE NEW YORK STATE ATTORNEY  
GENERAL

74. On October 6, 2014, in a bragging tone, Mr. Gilbert announced to the Officiating Department, including Defendant Littrell, “Just an FYI...I’ve been with our attorneys...and the Attorney General issue is dead.” Given the context of the meeting, it was clear to Plaintiff that Gilbert was referring to the terms of an agreement between the OAG and the USTA, whereby the USTA agreed to institute policies to end race and gender discrimination within the organization.

75. Plaintiff understandably believed Gilbert’s comments to mean that he would not honor the agreement with the OAG and that Gilbert could continue to discriminate and retaliate against Mr. Nimmons and other African-American employees. *See Exhibit D*, at Attachment A.

76. In August 2014, after Plaintiff filed complaints of discrimination, Gilbert said, “I know that you reported me to HR and Gordon.” (Gordon Smith, Chief Executive Officer.)

77. In fact, Plaintiff’s supervisor, Defendant Littrell, specifically told Mr. Nimmons during a meeting in February 27, 2015, that Gilbert was mad that Plaintiff had filed discrimination complaints.

78. Defendant Littrell further revealed that he was very fortunate and relieved to be able to conceal and hide his own minority status.

79. Plaintiff had never seen this type of negative behavior by USTA management directed at Caucasian workers.

80. These are just some of the examples of how Plaintiff has been discriminated and retaliated against by USTA management because of his race, or as a result of filing complaints.

MR. NIMMONS FILES A COMPLIANT WITH CHIEF OPERATING OFFICER GORDON SMITH

81. On July 23, 2014, Mr. Nimmons filed a complaint with the Chief Operating Officer of the USTA, Gordon Smith (“Smith”) outlining some of the discrimination he experienced, and requesting an investigation.

82. In his complaint, Mr. Nimmons explained that due to the stress caused by the unlawful discrimination and humiliation, he was being treated for a medical condition.

83. In that complaint, Plaintiff expressly stated that he wanted to keep his job at the USTA and that he was concerned about being retaliated against for filing the complaint, as he had seen retaliation against other USTA employees after they had filed complaints.

84. Prior to Gilbert becoming his supervisor, Mr. Nimmons had worked at each Grand Slam event.

85. After Plaintiff complained of discrimination by Mr. Gilbert, his duties were diminished, and

he was rarely authorized to engage in his role as Pathway Coordinator. As a result, he was unable to perform one of the most critical and rewarding aspects of his job: promoting diversity.

86. For months after filing the July 23, 2014 complaint with USTA management, Plaintiff received no response. During this time, Defendant Gilbert continued to discriminate and retaliate against Plaintiff and even threatened him, stating, “I know you reported me to Gordon (COO Gordon Smith).”

87. On October 30, 2014, Plaintiff sent another email to Mr. Smith, respectfully inquiring about the status of the investigation. In an email, Plaintiff also informed Smith that, at the suggestions of Defendant Gilbert, he had hired a coach to address some of the issues of racism at work and requested that Smith meet with his coach.

88. On November 12, 2014, Plaintiff received a note from Smith simply stating that an internal investigation had taken place and “no discrimination was found.”

MR. NIMMONS FILES A SECOND COMPLAINT – ALLEGING A HANGMAN’S NOOSE AT  
THE BILLIE JEAN KING NATIONAL TENNIS CENTER

89. On December 16, 2014, Plaintiff filed a complaint for discrimination and retaliation. In his complaint, Plaintiff requested training to help address the discrimination.

90. In his complaint, Mr. Nimmons also reiterated his prior concerns and complaints.

91. Mr. Nimmons further complained that a female African-American USTA employee was subjected to the gruesome and shocking display of a hangman’s noose near her work area. Plaintiff understandably believed that the noose is among the most vile and intimidating symbols of white oppression against African Americans. As Plaintiff worked to promote diversity, he was shocked to only learn later about the presence of the noose.

92. Plaintiff was further disappointed and concerned for his own physical safety because, to



Plaintiff's knowledge, the USTA never notified the police, the EEOC or the OAG staff who had already investigated claims of racism at the USTA, and no one in management discussed the issue with Plaintiff, who was ostensibly hired to promote diversity.

93. In his complaint of December 16, 2014, Plaintiff again asked for an independent investigation by someone with experience and knowledge of the racist and sexist culture at the USTA, such as a former investigator from the OAG. Plaintiff hoped that someone from the OAG's office who had investigated the prior claims of racism at the USTA would be willing to investigate his claims.

94. Plaintiff further requested that Gilbert's retaliation against him stop immediately.

95. On December 18, 2014, Mr. Smith acknowledged Plaintiff's complaint, and without ever speaking with Mr. Nimmons, dismissed his claims, stating "many of which on first blush appear to be based on a limited or misunderstanding of all the facts."

INSTEAD OF HIRING AN INDEPENDENT INVESTIGATOR WITH EXPERIENCE WITH  
THE OFFICE OF THE ATTORNEY GENERAL OR JUSTICE DEPARTMENT, AS PLAINTIFF  
REQUESTED, USTA HIRES DEFENSE COUNSEL

96. In early January 2015, Plaintiff was finally notified by USTA management that the organization was ready to conduct an investigation into his numerous complaints.

97. Unfortunately, instead of hiring someone with experience in confronting and combating discrimination by the USTA, or asking for help from the EEOC or the OAG or someone with experience with the justice department, the USTA management hired a nationally-recognized Caucasian defense attorney.

98. Based on conversations with the investigator, it was clear to Plaintiff that the investigator was more interested in discrediting him, than in investigating the allegations in good faith.

99. Upon information and belief, the investigator even solicited negative feedback and

comments about Plaintiff for that purpose.

Ongoing, Pervasive Discrimination Takes its Physical and Mental Toll on Mr. Nimmons and He is

FORCED OUT ON DISABILITY

100. Due to harassment, discrimination and the hostile work environment Plaintiff was subjected to, on or about May 20, 2015 Plaintiff was forced to go out on disability.

101. Prior to going out on disability, the USTA took an adverse action and demoted Plaintiff to a position as video editor. Plaintiff had no training and background in video editing.

102. After being retaliated against, and then demoted, Plaintiff was constructively discharged from the USTA in June 2016.

103. Mr. Nimmons has suffered severe and blatant discrimination at the hands of Defendants and their employees that have cost him prestige, prominence and income in the field of professional tennis umpiring and in working for the USTA.

104. Plaintiff filed an EEOC Complaint on January 28, 2015 and an Amended EEOC Complaint on November 16, 2015. Exhibit A, and Exhibit B, respectively. In its Determination released on June 7, 2017, the EEOC referenced the USTA's specious claim that the "noose was not related to race but was a poor [sic] conceived joke..." Despite the efforts by the USTA to callously spin its noose story into some sort of a joke, the EEOC concluded:

Credible evidence confirms that Charging Party [Nimmons] was discriminated against on the basis of his race. The Commission's investigation reveals that Charging party was repeatedly subjected to disparaging comments that were targeted specifically at him because of his race. Respondent [USTA] failed to take effective remedial action in response to Charging Party's complaint of discrimination. Each disciplinary action Charging Party received after every discrimination complaint appears to be retaliatory in nature.

Exhibit D, at page 2.

**CONCLUSION**

105. Plaintiff demands that Defendants cease such discriminatory policies and practices and immediately reinstate him to his position with the organization.
106. Plaintiff further demands that the USTA end the discrimination against other similarly-situated workers and employees with the USTA who were, and are, subjected to similar illegal discriminatory practices.

**AS AND FOR A FIRST CAUSE OF ACTION**

Section 1981

107. Plaintiff Nimmons repeats and reallege the allegations contained in the above paragraphs as if set forth herein.
108. Defendants have intentionally discriminated and retaliated against Plaintiff in violation of Section 1981 by:
- a. Treating Plaintiff in a discriminatory manner based on his race;
  - b. Retaliating against Plaintiff for asserting his right to oppose discrimination; and
  - c. Terminating Plaintiff's employment based on his race and assertion of his right to oppose discrimination.
109. As a direct and proximate consequence of Defendants' intentional, unlawful, discriminatory, and retaliatory treatment of Plaintiff, he has suffered, and continues to suffer, monetary damages including, but not limited to, a loss of income, including past salary; lost opportunity and benefits; and diminution of his prestige in his field of employment; and he seeks compensatory damages as well as damages due to the emotional distress and mental anguish, and has incurred attorneys' fees and the costs of this action.

**AS AND FOR A SECOND CAUSE OF ACTION**

**Title VII, Discrimination Based on Race**

110. Plaintiff repeats and realleges the allegations contained in the above paragraphs as if set forth herein.

111. Defendants have intentionally discriminated and retaliated against Plaintiff in violation of Title VII by:

- a. Treating him in a discriminatory manner based on his race;
- b. Retaliating against him for asserting his right to oppose discrimination; and
- c. Terminating Plaintiff's employment based on his race and assertion of his right to oppose discrimination.

112. As a direct and proximate consequence of Defendants' intentional, unlawful, discriminatory, and retaliatory treatment of Plaintiff, he has suffered, and continues to suffer, monetary damages including, but not limited to, a loss of income, including past salary; lost opportunity and benefits; and diminution of his prestige in his field of employment and seeks compensatory damages as well as damages due to emotional distress and mental anguish, and has incurred attorneys' fees and the costs of this action.

**AS AND FOR A FOURTH CAUSE OF ACTION**

**New York State Human Rights Law**

113. Plaintiff repeats and realleges the allegations contained in the above paragraphs as if set forth herein.

114. Defendants have intentionally discriminated and retaliated against Plaintiff in violation of the NYSHRL, including:

- a. Treating Plaintiff in a discriminatory manner based on his race;

- b. Retaliating against Plaintiff for asserting his rights against discrimination; and
- c. Constructively terminating Plaintiff's employment based on race and assertion of his rights against discrimination.

115. As a direct and proximate consequence of Defendants' intentional, unlawful, discriminatory, and retaliatory treatment of Plaintiff, he has suffered and continues to suffer monetary damages including, but not limited to, a loss of income, including salary; lost opportunity and company-sponsored benefits; and diminution of his prestige in his field of employment and seeks compensatory damages as well as damages due to the emotional distress and mental anguish, and has incurred attorneys' fees and the costs of this action.

**AS AND FOR A FIFTH CAUSE OF ACTION**

New York City Human Rights Law

116. Plaintiff repeats and realleges the allegations contained in the above paragraphs as if set forth herein.

117. Defendant has intentionally discriminated and retaliated against Plaintiff in violation of the NYCHRL, including:

- a. Treating Plaintiff in a discriminatory manner based on his race;
- b. Retaliating against Plaintiff for asserting his rights against discrimination; and
- c. Constructively terminating Plaintiff's employment based on his race and assertion of his rights against discrimination.

118. As a direct and proximate consequence of Defendants' intentional, unlawful, discriminatory, and retaliatory treatment, Plaintiff has suffered and continues to suffer monetary damages including, but not limited to, a loss of income, including salary and company-sponsored benefits; lost opportunity; and diminution of his prestige in his field of

employment and seeks compensatory damages as well as damages due to emotional distress and mental anguish, and has incurred attorneys' fees and the costs of this action.

**WHEREFORE**, Plaintiff respectfully request that this Court enter judgment:

- A. Declaring that Defendants' actions and practices violated Section 1981, Section 1983, Title VII, the NYSHRL and the NYCHRL;
- B. Reinstating Plaintiff to his position at the USTA;
- C. Permanently enjoining Defendants (and its officers, agents, and successors) from engaging in actions or practices that discriminate against Plaintiff and against any employee or job applicant because of race or participation in this lawsuit;
- D. Directing Defendants to make Plaintiff whole by providing him with reimbursement for lost compensation (past and future), pension income, Social Security contributions, and other employment-related benefits;
- E. Directing Defendants to pay compensatory damages for the emotional distress, pain, and suffering caused by their discriminatory and retaliatory treatment against Plaintiff;
- F. Directing Defendants to pay Plaintiff punitive damages sufficient to punish and deter continuation of Defendants' unlawful employment practices;
- G. Awarding Plaintiff reasonable attorney's fees and costs; and
- H. Granting such additional relief as this Court deems just and proper.

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all claims properly triable by a jury.

Dated: New York, New York  
April 27, 2018

Respectfully submitted,

By: 

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