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File ID No 99747

IN THE **CIRCUIT COURT OF COOK COUNTY, ILLINOIS**
COUNTY DEPARTMENT, LAW DIVISION

K & J MANAGEMENT, INC.,

Plaintiff,

v.

KYRA KYLES and LOLITA PIERCE,
individually and as agents of
LEGAL ASSISTANCE
FOUNDATION OF CHICAGO and
LEGAL ASSISTANCE
FOUNDATION OF **CHICAGO**

Defendants.

Case No.:

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CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
LAW DIVISION
AUREL J. JUDINSKI
CLERK

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FRAUD

COMPLAINT

Plaintiff, **K & J MANAGEMENT, INC. ("K & J")**, through its attorneys,
SEYFARTH, SHAW, FAIRWEATHER & GERALDSON, states as follows for its
Complaint against Defendants, **KYRA KYLES ("Kyles") and LOLITA PIERCE ("Pierce")**,
individually and as agents of **LEGAL, ASSISTANCE FOUNDATION OF CHICAGO** and
LEGAL ASSISTANCE FOUNDATION OF CHICAGO ("L AFC").

I. The Parties

1. Plaintiff, **K & J**, is an **Illinois corporation in good standing** with its principal
place of business at **3300 West 127th Street, Blue Island, Illinois 60406**. At all times
relevant to this Complaint, Plaintiff was located at **644 S. Clark Street, Chicago, Illinois**.
Plaintiff is in the business of **managing JK Guardian Security Services, Inc. ("Guardian")**

which provides security guard services to various organizations throughout Illinois, Wisconsin and Indiana,

K & J has developed a reputation for its honesty, integrity and professionalism with its clients.

2. Defendant LAFC is a not-for-profit corporation which is incorporated in the State of Illinois. LAFC is located at 111 West Jackson Boulevard, Room 300, Chicago, Illinois, 60604.

3. At all times relevant to this Complaint, Defendants Kyles and Pierce were Illinois residents residing in Cook County, Illinois and employed as testers by the LAFC. Kyles and Pierce are both of African-American descent, and at all times relevant to this Complaint were students at Northwestern University.

II. Jurisdiction and Venue

4. The Court has personal jurisdiction over all Defendants because all Defendants committed a tortious act within this State pursuant to 735 ILCS § 5/2-209(b)(2).

5. Venue is proper in this Court because the cause of action arose out of events which occurred in the County of Cook and State of Illinois.

III. Allegations Common to All Counts

6. In 1995, Defendant LAFC developed an employment testing project (the "project") purportedly designed to uncover racial discrimination in hiring practices. The project was funded by the United Way of Chicago.

7. LAFC hired approximately four (4) employees to act as "testers" for the Project. Defendants Kyles and Pierce were hired as testers during June 1995. In general,

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testers were hired to **present** fictitious resumes to employers and **pose** as job Seekers **ostensibly** for the purpose of detecting **racial** discrimination in hiring.

8. Both **Kyles** and **Pierce**, as well as **the other** individuals hired **as testers**, were required to sign **an employment agreement** with **L AFC**. As **part** of this agreement, the **tester** would assign all of his or her **rights to** any damages to **L AFC**.

9. **L AFC** would **then** pair **African-American testers**, such as **Kyles** and **Pierce**, with white testers. **The white testers** would misrepresent to **the employer** that they had less impressive credentials than the **African-American testers**. If **the employer** hired the white tester over **the African-American tester** **L AFC** concluded that the **employer** was **discriminating on the basis** of race.

10. **L AFC** staff, working in **conjunction with** the testers, would **develop the** fictitious resumes which they **opined** would make **the African-American testers** more attractive to employers than the white testers. **While some information** contained in the **fictitious resume** was based **on the testers' actual** experience, the **L AFC** also made up work **histories and other** data to **create** a fictitious **employment history and educational background**.

11. Upon information and belief, **L AFC** would **instruct its** testers **as to** which employers it should interview with, **based on its** review of **recent newspaper advertisements**.

12. **Kyles** and **Pierce**, as well as **the other testers**, were instructed by **L AFC** staff to **make** positive statements about **their** interest in **the job** and **ask questions about the** company to **indicate their interest** in being **hired for the position**. In truth and fact, **the testers** did not have any **interest in accepting** employment **at any of the organizations to**

which they applied, and were required by LAFC to refuse any offer of employment received in conjunction with their testing activities.

13. During the summer of 1995, Kyles applied for positions at B different employers. Kyles did not receive any offers of employment. While she received two referrals from employment agencies, she did not receive offers from the employers to which she was referred. Pierce applied for positions at 16 employers and received 5 job offers, She also applied at an employment agency, but did not receive any referrals. Kyles and Pierce, in their own names but for the benefit of LAFC, have brought several race discrimination lawsuits as a result of the project.

14. Plaintiff K & J is one of approximately 600 employers who have been targeted by LAFC as part of the project. To date, LAFC continues to send fictitious resumes and testers to various employers in Illinois for the purpose of manufacturing a basis for a discrimination lawsuit against such employers.

COUNT I: COMMON LAW FRAUD
(Against All Defendants)

15. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 14 of the Complaint as if fully set forth herein.

16. During all times relevant to the Complaint, Defendants Kyles and Pierce were employed by LAFC as "testers." Kyles and Pierce were hired by LAFC to pose as job seekers for the purpose of manufacturing a basis for a racial discrimination lawsuit against an employer.

17. On June 26, 1995, Defendant Kyles, individually and as an agent of LAFC, went to the offices of Plaintiff, then located at 644 South Clark Street, Chicago, Illinois, to inquire about the receptionist position advertised in the Chicago Tribune on June 25, 1995.

18. On that day, Kyles represented to Martin Labno ("Labno"), the Human Resources Manager of K & J, that she was interested in obtaining employment there as a receptionist.

19. Kyles presented the fictitious resume and employment application information to Labno, and indicated that she could begin work "as soon as possible." (Copies of Kyles' fictitious resume and employment application are attached hereto as Exhibits A and B, respectively, and are made part of this Complaint). This information was developed by LAFC as part of the project.

20. As Kyles had an appointment at another test site, she was not able to interview with Labno on that same day. Later that afternoon, Kyles called Labno and expressed an interest in setting up an interview. He scheduled the interview for 10:00 am. the following day.

21. On June 27, 1995, Kyles returned to Plaintiff and again represented to Labno that she was interested in obtaining employment there. Kyles never received an offer of employment from Plaintiff.

22. On June 29, 1995, Defendant Pierce, individually and as an agent of LAFC, called Plaintiff to inquire about the same receptionist Position. Pierce was told to come to Plaintiff's office and fill out an application for employment. Pierce went to the office of Plaintiff on that same day.

23. Pierce presented a fictitious resume and employment application information to Labno, and also indicated that she could begin work "as soon as possible." (Copies of the

fictitious resume and employment application of pierce are attached hereto as Exhibits C and D, respectively, and are made part of this Complaint). This information was developed by LAFC as part of the project.

24. Pierce **interviewed with Labno** on that name day. At **the** end of the interview, Pierce **was** told **that he was** screening **applicants** and **would be conducting interviews over the next three days.**

25. **On July 6, 1995, Pierce** again contacted **Labno and represented that she was still interested in the receptionist position. Pierce never** received an offer of employment **from Plaintiff.**

26. The **statements** made by **Kyles and Pierce** as **described** above were made during the **course** of their employment at WC and **under the instruction of LAFC.**

27. The **statements** made by **Kyles and Pierce were false and untrue.** In **truth and fact,** neither Kyles nor Pierce had an Merest **in a receptionist** position and would have refused any **offer** of employment made by **Plaintiff in response** to their **applications.** Further, it would **have been impossible** for **Kyles** and Fierce to begin work **"as soon as possible"** as both were already employed by **LAFC.**

28. **In truth and fact, Kyles and Pierce did not possess the characteristics and qualifications described in the resumes and employment applications that they each presented to Plaintiff.**

29. **The resume that Kyles had submitted to LAFC for the tester position indicated that Kyles was presently completing her degree at Northwestern University. (A copy of the true resume of Kyles is attached hereto BE Exhibit E and is made part of t&is Complaint).**

30. **The resume** that Pierce had submitted to **L AFC** for **the** tester position **also** indicated that **she** was **presently** completing her **degree at Northwestern** University. (A **copy** of **the true** resume of Pierce **is** attached hereto as Exhibit F and **is made** part of the Complaint).

31. **The statements were known to be false to Kyles and Piacc when made. These statements were made by Kyles and Pierce with the intent of deceiving and defrauding Plaintiff and to induce Plaintiff to process and review their applications for employment. These statements were made at the direction of L AFC and as part of Kyles and Pierce's employment there.**

32. **Plaintiff believed the statements by Kyles and Pierce relied on those statements. As a result, Plaintiff was induced to waste time and resources interviewing, screening and processing their applications for employment- If Plaintiff was aware that Kyles and Pierce were testers with no interest in the position, Labno would not have reviewed their application or interviewed them for the receptionist position.**

33. **When Kyles and Pierce did not receive off' of employment from Plaintiff, but the two white testers who also interviewed for the receptionist position did receive offers. Kyles and Pierce brought an action entitled Kyra Kyles and Lolita Pierce v. JK Guardian Security Services, Inc. (d/b/a Guardian Security Services), 97 C 8311 (hereinafter referred to as the "Lawsuit"). The Complaint alleged violations of the **Civil Rights Act of 1866** and Title VII of the **Civil Rights Act of 1964** against **Guardian**.**

34. **As part of their employment agreement with L AFC, Kyles and Pierce were to assign all damages recovered in the Lawsuit to L AFC.**

35. On September 18, 1998, United States District Judge, **Suzanne B. Conlon**, granted **Guardian's** motion for summary judgment and entered judgment for **Guardian** against **Kyles** and **Pierce**. The decision was based on the fact **Kyles** and **Pierce** had no standing to bring the suit under Article III of the **United States Constitution** because they did not suffer any injury since neither intended to accept employment at **Guardian**. Further, **Kyles** and **Pierce** also did not have standing under Title VII because **they were** not bona fide applicants **genuinely interested** in employment with **Guardian**. (A copy of **Judge Won's** Memorandum **Opinion** and **Order** is attached hereto as Exhibit G and is made **part of this** Complaint),

36. Thus, Plaintiff has also suffered damage to its **good will** and reputation by **having**)
to **defend** against a manufactured lawsuit with **no** basis in **fact** or law.

WHEREFORE, PLAINTIFF, K & J MANAGEMENT, INC., requests that judgment be entered in its **favor** and **against Defendants**, and that **Plaintiff be awarded the** following relief:

- A. **Damages to compensate it for the losses that it sustained to date as a result of Defendants conduct;**
- B. An award of **reasonable attorneys fees and costs** of tit;
- C. Punitive of **exemplary** damage5 in an amount **sufficient** to punish Defendants and **deter** them and others **from similar wrongdoing;**
- D. Such other and **further relief** as **the Court deems just and** equitable.

COUNT II-MAINTENANCE
(Against Defendant **L AFC**)

37. **Plaintiff** repeats and **realleges** the **allegations contained** in Paragraphs 1 through 36 of the Complaint as if **fully set forth herein**.

38. As stated above, **Kyles** and **Pierce** entered into an employment agreement with **L AFC**. As part of this agreement, **Kyles** and **Pierce** were required to assign all damages recovered in any lawsuit initiated as a result of the project to **L AFC**. **Kyles** and **Pierce** also agreed to not institute or be a party to any action without first getting approval from **L AFC**.

39. **L AFC**, as a result of information obtained through the project, decided to allege that Plaintiff discriminated against **Kyles** and **Pierce** on the basis of race. Upon information and belief, **Kyles** and **Pierce** were told by **L AFC** that a Lawsuit would be filed on their behalf against Plaintiff, The decision to file the Lawsuit was not their own.

40. **L AFC** filed the Lawsuit and represented **Kylca** and **Pierce** throughout the course of the litigation at no cost to than. **L AFC** also paid all other costs and fees incurred as a result of the Lawsuit.

41. **L AFC** had no interest in the Lawsuit but carried on the Lawsuit at its own expense in consideration for receiving damages if it were a success. The agreement between **L AFC** and **Kyles** and **Pierce** resulting in such conduct is champertous and violates public policy.

42. **L AFC** intermeddled with the Lawsuit by financing it on behalf of **Kyles** and **Pierce** for the purpose of stirring up strife and litigation.

43. **L AFC's** conduct in instigating the Lawsuit and intermeddling with it was without merit. **Guardian** successfully defended against the Lawsuit and summary judgment was entered in its favor and against **Kyles** and **Pierce**.

44. As a result of **L AFC's** conduct Plaintiff has suffered damage to its good will and reputation and has incurred unwarranted expenses by having to defend against the baseless Lawsuit

WHEREFORE, PLAINTIFF, K&J MANAGEMENT, INC., requests that judgment be entered in its favor and against Defendant LAFC, and that Plaintiff be awarded the following relief:

- A. Damages to compensate it for the losses that it sustained to date as a result of Defendant's conduct.
- B. Damages to compensate it for all the expenses it incurred defending against the prior Lawsuit including, but not limited to, attorneys fees;
- C. An award of reasonable attorneys fees and costs of this suit;
- D. Such other and further relief as the Court deems just and equitable.

Dated: November 4, 1998

Respectfully Submitted,

K & J MANAGEMENT, INC., Plaintiff

By: *Douglas A. Darch*
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