

51823A

ORIGINAL FILED
MAY 8 2002
WILLIAM T. WALSH, CLERK

UNITED STATES DISTRICT COURT
For, The
DISTRICT OF NEW JERSEY

----- X

RICHARD E. BARBER, SR.,

On Behalf of Himself and as
Representative of His -
Enslaved Ancestors and All
Persons Similarly Situated,

PLAINTIFF,

vs.

NEW YORK LIFE INSURANCE, BROWN
BROTHERS HARRIMAN & COMPANY,
NORFOLK SOUTHERN, and Their
predecessors, successors and/or
assigns, and CORPORATE DOES NOS.
1-100,

DEFENDANTS.

----- X

CIVIL ACTION #

CLASS ACTION 02 cv 2084 (FSH)

COMPLAINT
AND JURY TRIAL DEMAND

Plaintiff, on behalf of himself and his enslaved ancestors,
and all other persons similarly situated, state, upon
information and belief, as follows:

INTRODUCTION, JURISDICTION AND VENUE

Introduction

1. Millions of Africans and their descendants were enslaved in America from 1619 to 1865. Estimates range from 8,000,000 to 50,000,000. The practice of slavery constituted an immoral and inhumane deprivation of African life, liberty, human rights and cultural heritage. Furthermore, it deprived them of the fruits of their own labor. The institution of slavery in United States and its predecessor colonies consisted of the involuntary, lifelong hereditary system of chattel servitude.

2. The Dutch slaver that sailed into Jamestown Harbor in Virginia colony in 1619 contained only 27 captive Africans, but by the end of the Atlantic slave trade, more than two and a half centuries later, "somewhere between 8 million and 50 million Africans had arrived in America in chains.'

3. Historians estimate that one slave perished for every one who survived capture in the African interior and made it alive to the New World, meaning as many as 12 million perished along the way.²

¹ Brent Staples, African Holocaust, *Lessons from a Graveyard*. Others estimate this figure to be as high as 50

d.11011.

² Ira Berlin, "Many Thousands Gone"; Conversations with Dr. Barbara Wheeler.

4. Although, it is a common perception that the South alone received the enslaved Africans, many of them arrived in ports throughout the North, including, the Dutch colony of New Amsterdam that' later became New York City and parts of New
--- Jersey. Integral to the colony from the start, slaves helped build Trinity Church, the streets of the city, including Broadway, and the wall, from which Wall Street takes its name, that protected the colony from military strikes.³

5. Later, Africans enslaved in New York lived in attics, hallways and beneath porches, cheek to jowl with their master and mistresses. In death, many of these same Africans were banished to the Negro Burial, Ground, which lay a mile outside the contemporary city limits and contained between 10,000 and 20,000 bodies by the time it was closed in 1794. Id.

6. Further research conducted by Howard University of 400 skeletons of these buried slaves revealed that 40 percent were children under the age of 15 and the most common cause of death was malnutrition. Most of the children had 'rickets, scurvy anemia or related diseases. The adult skeletons show that many people died of unrelenting hard labor. Strain on the muscles and ligaments was so extreme that muscle attachments were

³ Brent Staples, African Holocaust, *Lessons from a Graveyard*.
New Jersey / Class Action Complaint
American Slavery Case - May I, 2002
Page 3

commonly ripped away from the skeleton taking chunks of bone with them-leaving the body in perpetual pain. The highest mortality rate is found - w women ages 15 to 20. Investigators have concluded that some died of illnesses -vy acquired in the holds of slave ships, or from exposure to .the cold or from the trauma of being torn from their families and shipped in chains halfway around the globe. Moreover, the research has concluded that these women were worked to death by owners who then simply went out and bought a new slave.⁴

7. New Yorkers were not alone in the utilization of slave labor, indeed, the State of New Jersey had numerous ports whose major commodity was enslaved Africans. These ports included Camden, Elizabeth, Perth Amboy, Bayonne and Newark. Phillip Carteret, New Jersey's first Governor, encouraged the institution of slavery in New Jersey in that in 1665, additional grants of land were awarded to his fellow voyagers from England, if they arrived with slaves and indentured servants.⁵ In 1674, the area that is now New Jersey was divided into two colonies, East and West. East Jersey consisted of the counties now known as Bergen Essex, Middle&x and Monmouth. East New Jersey's

⁴ Brent Staples, African Holocaust, *Lessons from a Graveyard*, quoting in part form Dr. Michael Blakey, Howard University.

⁵ Clement Price, Freedom Not Far Distant (1980).
New Jersey / Class Action Complaint
American Slavery Case -May 1, 2002
Page 4

financial base came primarily from the trade of enslaved Africans. Moreover, like New York, enslaved Africans' labor built East Jersey. It was rare for white people living in East Jersey to be without enslaved Africans. Colonial New Jersey earned the notorious distinction of importing larger numbers of enslaved Africans than any other northern colony and for its harsher treatment of enslaved Africans than any other colony. On the eve of the Revolution, enslaved Africans were estimated to be 10-12 per cent of East Jersey's population. In fact, New Jersey was the last Northern state to abolish slavery in 1828, years after its other Northern counterparts.⁶

8. More recent research has revealed that many of our esteemed and celebrated institutions of learning had their origins in the profits, derived from the slave trade. For instance, money from the slave trade financed Yale University's first endowed professorship, its first endowed scholarships and its first endowed library fund. Moreover, in the 1830's, Yale officials led the opposition that prevented the building of the first African American college, on the grounds that such an institution would have been "incompatible with the existence of Yale". Nicholas and John Brown, two of the founders of what

⁶ Id.

became Brown University were slave traders. Likewise, Harvard Law School was endowed by money its founder earned selling slaves in Antigua's cane fields.'

9. Most early American industries were based on the cotton, sugar, rice, tobacco, and other products African labor produced. Railroads and shipping companies, the banking industry and many other businesses made huge profits. from the commerce generated by the output of enslaved labor.

10. Enslaved Africans built the U.S. Capitol, cast and hoisted the statue of freedom on top of its dome, and cleared the forest between the Capitol and the White Hous*.

11. Slavery fueled the prosperity of the young nation. From 1790 to 1860 alone, the U.S. economy reaped the benefits of as much as \$40 million in unpaid labor.⁹ Some estimate the current value of this unpaid labor at 1.4 trillion dollars.¹⁰

12. Although, the slave trade was abolished by England in 1807 and by the United States in 1808, individuals, industries and the government, wholly dependant upon the economic benefits derived from the use of unpaid labor, continued to keep the trade alive by aiding and abetting in the illegal smuggling of

'KateZemike, "Slave Trader's inYale's Past Fuel Debate onRestitution",NewYorkTimes (August13,2001)

' Randall Robinson, *Compensate the Forgotten Victims of America 's Slavery Holocaust.*

' TimWise, "Breaking the Cycle ofWhite Dependency"(5/22/02).

"Tamara Audi, "PaybackforSlavery:GrowingPushforReparationsTriestoFulfillBrokenPromise", quoting RandallRobinson(9/18/00).

New Jersey / Class Action Complaint

American Slavery Case -May I. 2002

Page 6

enslaved Africans and by aiding and abetting in the institution of "breeding" enslaved Africans. Breeding continued since every child born enslaved, bore a capital value to its owner that far exceeded the cost to raise the enslaved child.¹¹

-v.

13. Not only did the institution of slavery result in the deaths of millions of Africans, it eviscerated whole cultures: languages, religions, mores, and customs. It psychologically destroyed its victims. It wrenched from them their history, their memories, and their families on a scale never previously, nor since, witnessed.

14. When the institution finally ended, the vestiges, racial inequalities and cultural psychic scars left a disproportionate number of United State slave descendants injured and heretofore without remedy.

15. Although the institution of slavery in the United States was officially outlawed in 1865, smuggling of enslaved African slaves continued, * facto, until as recently as the 1950's. National archive records reveal that in the 1920's and 1930's, the NAACP still received letters from African-Americans claiming to still be on 'plantations and forced to work without pay- Several claims were investigated and were found to be

"ClementPrice, FreedomNotFarDistant(1980).

legitimate. Moreover, as late as 1954, the Justice Department prosecuted the Dial brothers in Sumpter County, Alabama because they held blacks in involuntary servitude.²

16. Hence, measures tailed "Black Codes" guaranteed continued control of Blacks by white employers. As John Hope Franklin noted in From Slavery to Freedom:

the control of blacks by white employers was about as great as that which slaveholders had exercised. Blacks who quit their job could be arrested and imprisoned for breach of contract. They were not allowed to testify in court except in cases involving members of their- own race; numerous fines were imposed for seditious speeches, insulting gestures or acts, absence from work, violating curfews and the possession of firearms. There was of course no enfranchisement of blacks and no indication that in the future they could look forward to full citizenship and participation in democracy.¹³

17. When the institution of slavery finally ended, the vestiges, racial inequalities and cultural psychic scars left a disproportionate number of American slave descendants injured and heretofore without remedy.

¹* Alistair Highbet, "Will America Pay for the Sins of the Past, Slavery's Past". (February 14,2002). The Hartford Advocate, quoting, Dr. Ronald Walters.

18. Even after mancipation, the lives of African Americans remained locked in quasi-servitude, due to legal, economic and psychic restraints that effectively blocked their economic, political and social advancement. Id.

19. The post-Reconstruction practices of peonage and sharecropping which continued well into the twentieth century were direct outgrowths of slavery that continued a system of complete control by the dominant culture. Peonage was a complex system where a black man would be arrested for "vagrancy", ordered to pay a fine that he could not afford, and then incarcerated. A plantation owner would then pay the fine and then hire him until he could afford to pay off the fine. The peon was forced to work, locked up at night and if he escaped, was chased by bloodhounds until recaptured.¹⁴

20. Also, during this period, the wholesale murder of African Americans began with the rise of the Ku Klux Klan and other like organizations. Over 5,000 African Americans were lynched between 1880 and 1920.¹⁵

21. Likewise, from 1865 to the 1920's, African Americans became sharecroppers on land leased from whites whose grandparents had owned their ancestors. These African Americans

¹⁴ Yuval Taylor, I Was Born a Slave.

¹⁵ Ida B. Wells, A Passion for Justice.

were not allowed to vote, and were socially and economically relegated to the left-overs in education, earnings, and freedoms.

22. More recently, a 1998 census report shows that 26 percent of African American people in the United States live in poverty compared to 8 percent of whites. It also showed that 14.7 percent of African Americans have four-year college degrees, compared with 25 percent of whites. The same year, African American infant-mortality rates were more than twice as high as those among whites. Federal figures also show that a Black person born in 1996 can expect to live, on average, 6.6 fewer years than a white person born the same year.

23. African-Americans are more likely to go to jail, to be there longer, and if their crime is eligible, to receive the death penalty. They lag behind whites according to every social yardstick: literacy, life expectancy, income and education; They are more likely to be murdered and less likely to have a father at home.

24. Defendants, including, but not limited to NEW YORK LIFE INSURANCE COMPANY, BROWN BROTHERS HARRIMAN & COMPANY, AND NORFOLK SOUTHERN, through their predecessors-in-interest, conspired with slave traders, with each other and other entities

and institutions (whose identities are not yet specifically identified, but which are described herein as CORPORATE DOES # 1-100) and other un-named entities and/or financial institutions to commit and/or knowingly facilitate crimes against humanity,
- 7
and to further illicitly profit from slave labor.

25. Plaintiffs and the plaintiff class are African American descendants of enslaved Africans whose ancestors were forced into servitude from which the defendants unjustly profited. Plaintiffs seek an accounting, constructive trust, restitution, disgorgement and compensatory and punitive damages arising out of Defendants' past and continued wrongful conduct.

JURISDICTION AND VENUE

26. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1332(a) since the amount in controversy exceeds \$75,000 per plaintiff exclusive of interests and costs and there is diversity of citizenship.

27. The Court has personal jurisdiction over the parties in that the defendants conduct systematic and continuous business within the State. of New Jersey.

28. Venue is proper in this Court since the Defendants do business and may be found in the District within the meaning of 28 U.S.C. 1391(a).

29. Plaintiff and the plaintiff class are African-American descendants of enslaved Africans.

30. Plaintiff Richard E. Barber, Sr. is a New Jersey resident whose ancestors were enslaved in the agricultural industry and other industries. Plaintiff is a resident of Somerset, New Jersey. Mr. Barber is the grandson and great-grandson of enslaved Africans. His great-grandfather, Peter Barber, was born into slavery in 1820 in Trenton, North Carolina. His grandfather, William Mae Barber, was likewise born into slavery in 1840, along with his three sisters, Anna, Hula, and Julia and his two brothers, John and Seth. Peter Barber was a farmer and William Mae, was a master carpenter. William Mae Barber built many of the stately homes that still stand along Route 58 South in Trenton, North Carolina. The plaintiff, Richard Barber, recalls delivering newspapers, cutting lawns and raking leaves of many of the residents of the homes his grandfather built. Richard Barber's father, John, was a sharecropper. Richard Barber recalls stories about slavery told to him by his great-Aunt Anna.

DEFENDANTS

31. Defendants and the other known and unknown defendants used and/or profited from slave labor and have retained the benefits and use of those profits and products derived from that slave labor. Defendants knew that the plaintiff class was subject to physical and mental abuse and inhuman treatment.

32. Defendants conspired with each other with intentions to violate Plaintiff's .ancestors' basic human rights and by so doing, to profit from these violations.

FIN2UKIA.L INDUSTRY

33. Defendant BROWN BROTHERS HARRIMAN 'h COMPANY ("BROWN BROTEERS BXKfMAN") is a corporation with its principal place of business located at 59 Wall Street, New York, New York. It is the successor corporation to Brown Brothers & Co. The bank founders, James and William Brown, built their merchant bank by lending to Southern planters, brokering slave-grown cotton and acting as a clearinghouse for the South's complex financial system . The firm earned commissions arranging cotton shipments from Southern ports to mills in. New England and Britain. It also loaned millions directly to planters, merchants and cotton brokers throughout the South. Company records also reveal that

Brown Brothers loaned to plantation owners who told the firm that they needed the cash to buy slaves. When those planters or their banks failed, it used its local agents to run repossessed plantations and manage the enslaved Africans working there-⁶

- 7

34. Additionally, Brown Brothers' enrichment from slave labor-is further evidenced by Louisiana court records dating back to the 1840's that reveal the firm's ownership of at least two cotton plantations totaling 4,614 acres and the plantations' 346 slaves, each named in court records. Brown Brothers h Company merged with two other firms in 1931 to create BROWN BROTHERS HARRnmN. l'

INSURANCE INDUSTRY

35. .Defendant NEW YORE LIFE INSURANCE COMPANY ("NEW YORE LIFE") is a 'corporation with its general office located at 2 New York Plaza, 7th Floor, New York, New York 10004. NEW YORK LIFE's predecessor-in-interest, Nautilus Insurance, earned premiums from its sale of life insurance to slave owners. One third of its first 1,000 policies were to insure the lives of slaves. It insured slaves in the agricultural industry of which the plaintiff's ancestors were a part.

⁶ Cox, James. "Brown Bros., Loans gave planters cash to buy slaves." USA Today (0212 1/02).
"Id.

RAILROADS

36. Defendant NORFOLK SOUTHERN is a corporation with its principal place of business located at Three Commercial Place,
- 7 Norfolk Virginia 23410-9227.. It does continuous and systematic business in New Jersey. It is a successor-in-interest .to numerous railroad lines that were constructed or run, in part, by slave labor.

37. Defendants CORPORATE DOES NOS. 1-100 are other companies, industrial, manufacturing, financial and other enterprises that, like the named Defendants, its/their predecessors, affiliates and/or assigns unjustly profited from slave labor. The designation CORPORATE DOES NOS. # 1-100 is used until such time as the specific identity of such additional companies, as they relate to this action, is ascertained through discovery and/or other means.

CLASS ALLEGATIONS

38. This action is brought and may properly be maintained as a class action pursuant to the provision of the Federal Rules of Civil Procedure 23(a), 23(b) (2) and 23(b) (3). Plaintiff

seeks certification of the following class: all African-American slave descendants.

39. The exact number of Plaintiff class members is not known. Plaintiff estimates that the class includes millions of African-American descendants of enslaved Africans and the Plaintiff estimates that the class is so numerous that joinders of individual members is impracticable. The number and identities of the class members can only be ascertained through appropriate investigation and discovery.

40. Questions of fact and law are common with respect to each class member. Common questions of fact and law include:

a. Whether Defendants knowingly, intentionally and systematically benefited from the use of enslaved laborers;

b. Whether Defendants wrongly converted to their own use and for their own benefit, the slave labor and services of the Plaintiff's ancestors, as well as, the products and profits from such slave labor;

c. Whether the Defendants knew or should have known that they were assisting and acting as accomplices in immoral and inhuman deprivation of life and liberty;

d. Whether Defendants have been unjustly enriched by their wrongful conduct; and

e. Whether, as a result of this horrific and wrongful conduct by the Defendants, the Plaintiff class is entitled to restitution or other equitable relief, or to compensatory or punitive damages.

41. The claims of the individually named Plaintiff are typical of the claims of the Plaintiff Class Members. Plaintiff and all members of the Plaintiff Class have been similarly affected by the Defendants common course of conduct and the members of each class have similar claims against the Defendants. The claims of all class members depend on a showing of the Defendants' common course of conduct, as described herein, which gives Plaintiff, individually and as class representative, the right to the relief sought herein.

42. There is no conflict as between Plaintiff and the other members of the class with respect to this action or the claims for relief. Plaintiff knows and understands his asserted rights and -his role as class representative.

43. Plaintiff and his attorneys are able to and will fairly, and adequately, protect the interest of the Class. Several of Plaintiff's attorneys are experienced class action

litigators who are or will be able to conduct the proposed litigation. Plaintiff's attorneys can vigorously prosecute the rights of the proposed class members.

-6`
44. Prosecution of separate actions by individual Plaintiffs will create the risk of inconsistent and varying adjudications and will establish incompatible standards of conduct for Defendants in that different Courts may order Defendants to provide different types of accounting or take other inconsistent actions.

45. Prosecutions of separate actions by individual plaintiffs of other proposed class members not -party to the adjudications will substantially impair or impede their ability to protect their interest in that, for example, Defendants may exhaust their available funds in satisfying the claims of earlier plaintiffs to the detriment of later plaintiffs.

46. Defendants have acted and/or refused to act on grounds generally applicable to the proposed class, making final injunctive relief and correspondent declaratory relief appropriate- with respect to the class as a whole in that Defendants have been unjustly enriched by participation in acts that were known to be immoral and inhumane, and Defendants: (a) prevented and or refused restitution to the proposed class

members, (b) prevented and/or refused ,to disgorge wrongfully gained and/or earned profits and benefits, or. (c) -refused to provide a full and complete accounting and disclosure of the extent of their aforesaid actions.

.w:

47. Common questions of law and fact predominate in the claims of all class members, including the named Plaintiff. These claims depend on proving Defendants are liable for their acts and/or omissions based, in part, on evidence of a common scheme. Plaintiff's and the plaintiff class members' proposed evidentiary showings would be based on the same documents and testimony concerning the Defendants' actions.

48. A class action is superior to the other available methods for the fair, just and efficient adjudication of the controversy. Plaintiff and the Plaintiff class members have no interest in individually controlling the prosecution of separate actions and, instead are on the whole incapable as practical matter of pursuing individual claims. Even if individual class members had the resources to pursue individual litigation, it would be unduly burdensome to the Courts in which the individual litigation would proceeds. Individual litigation magnifies the delay and expenses to all parties in that the Court system of resolving the controversies engendered by Defendants/individual

and/or common course of conduct. The class action device allows a single court to provide the benefits of unitary adjudication, judicial economy and the fair .and equitable handling of all plaintiffs; claims in a single forum. The conduct of this e action as a class action conserves the resources of the parties and of the judicial system, and reserves the rights of each class member. Furthermore, for most class members, a class action is the only feasible mechanism that allows them an opportunity for legal redress and justice. A large concentration of proposed class members is estimated to reside in this District and nearby states. The management of the litigation as a class would pose few problems for this Court.

49. Certification of the Plaintiff class is appropriate under Fed. R. Civ. P. 23(a) and also under 23(b) (2), 23(b) (3).

EQUITABLE TOLLING, DISCOVERY RULE AND CONTINUING TORT

50. The plaintiff has been unable to secure records with regards to their ancestors due to the failure of most to be able to reliably access ship manifestos, or human cargo lists that directly connect them to their descendants. Moreover, family names were changed once the Africans arrived in America making it nearly impossible to accurately trace records. Recent

advances in Internet and computer databases have made these records more accessible to the average African-American.

51. Likewise, corporate histories and records have also been extremely difficult and inaccessible to most people. Hence, research tracing the monetary benefit derived by American corporations from the slave trade has only been accessible and discussed by prominent researchers within the last year.

52. Moreover, efforts to attempt to raise the issue of reparations for African-Americans in an attempt to secure easier access to information have stalled in Congress. Representative John Conyers from Michigan has for the last 11 years attempted to propose a resolution, No. 40, seeking to set aside \$8 million dollars to study the effects of slavery and come up with a formula for reparations. His resolution has died in committee for each of these past eleven years.

53. Finally, the action of each of the Defendants by their failure to provide an accounting to the plaintiff constitutes a continuing tort that tolls the statute.

COUNT I - CONSPIRACY

54. Each of the Defendants acted individually and in concert with their industry group and with each other, either

expressly or tacitly, to participate in a plan that was designed in part to commit the tortious acts referred to herein.

55. For instance, each industry group was co-dependant on each other and operated as joint enterprise, designed in part, -g- to maintain and continue a system of inhumane servitude; The shipping and railroad industry benefited and profited from the transportation of the slaves. The railroad industry utilized slave labor in the construction of rail lines. These transportation industries were dependent upon the manufacturing and raw materials industry to utilize the slaves they shipped. The cotton, tobacco, rice and sugar industries thrived on profits generated from their use of slave labor, and relied upon financial and insurance industries to finance and insure the slaves that they utilized and owned. All industries: raw market, retail, financial, insurance, and transportation, benefited from the reduced costs of slave-produced goods.

COTJNT'II- DEMAND FOR AN ACCOUNTING

56. Plaintiff on behalf of himself, his ancestors and all other descendants who are similarly situated, re-allege as if fully set forth, each and every allegation contained into the preceding paragraphs.

57.. The Defendants knew or should have known of the existence of corporate records that indicate their profiting from slave labor. Plaintiff and the public have demanded that the Defendants reveal their complete corporate records regarding -7 same and that a just and fair accounting be made for profits derived from the slave trade.

58. Defendants have failed to provide said records and have failed to comply with plaintiffs' demand.

WHEREFORE, Plaintiff demands judgment requiring: (a) defendants make a full disclosure of all of their corporate records that reveal any evidence of slave labor or their profiting from same; (2) seeking the appointment of an independent historic commission to serve as a depository for corporate records related to slavery; (3) directing defendants to account to plaintiff for any profits they derived from slavery.

COUNT III - HUMAN RIGHTS VIOLATIONS

59. Plaintiff on behalf of himself, his enslaved ancestors and all other descendants who are similarly situated, re-allege as if fully set forth, each and every allegation contained in the preceding paragraphs.

60. The Defendants participated in the activities of the institution of slavery and in so doing furthered the commission of crimes against humanity, crimes against peace, slavery and forced labor, torture, rape, forced pregnancy, starvation, physical and mental abuse and summary execution. Specifically, the defendants profited from these wrongs.

61. Defendants knowingly benefited from a system that enslaved, tortured, starved and exploited human beings, so as to personally benefit them. In the process, the Defendants directly or indirectly subjected the plaintiffs' ancestors to inhumane treatment, physical abuse, torture, starvation, execution and subjected the plaintiffs to the continued effects of the original acts, including but not limited to: race discrimination, unequal opportunity, poverty, substandard health care, substandard treatment, substandard housing, substandard education, unjust incarceration, racial profiling, and inequitable pay.

62. The above referenced actions by the Defendants were in violation of international law.

63. As a result .of the above referenced violations of international norms, Plaintiff and members of the Plaintiff

class have suffered injury and are entitled to compensatory damages in an amount to be determined at trial.

COUNT IV - CONVERSION

64. Plaintiff on behalf of himself, his enslaved ancestors and all other descendants who are similarly situated, re-allege as if fully set forth, each and every allegation contained in the preceding paragraphs.

65. As a result of Defendants' failure and refusal to account for, acknowledge and return to Plaintiff and the members of the Plaintiff class, the value of their slave labor, Defendants have willfully and wrongfully misappropriated and converted the value of that labor and its derivative profits into Defendants' own property.

66. Defendants have never accounted for or returned the value of Plaintiff's ancestors' slave labor and the profits Defendants derived from said slave labor.

67. As a result of Defendants' wrongful acts and omissions, Plaintiff and members of the Plaintiffs class have been injured and demand judgment against the Defendants jointly, severally and/or in the alternative on this cause of action for, amongst other things: (a) an accounting of the slave labor monies, profits and/or benefits derived by Defendants; (b) a

constructive trust in the value of said monies, profits and/or benefits derived by -Defendants use of slave labor; (c) full restitution in the value of all monies, profits, and/or benefits derived by Defendants' use of slave labor; (d) equitable disgorgement of all said monies, profits, and/or benefits derived by Defendants' exploitation of slave labor; and (e) other damages in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and costs of this action.

COUNT v - TJNJUST ENRICHMENT

68. Plaintiff on behalf of himself, his ancestors and all other descendants who are similarly situated, re-allege as if fully set forth, each and every allegation contained into the preceding paragraphs.

69. Defendants have improperly benefited from the immoral and inhumane institution of Slavery in-the United States.

70. Defendants have failed to account for and or return to Plaintiff and the Plaintiff class the value of their ancestors' slave labor and or the profits and benefits the Defendants

derived therefrom and Defendants have concealed the nature and scope of their, participation in the Institution.

71. As a result of the Defendants' wrongful acts .and omissions as described above, Defendants have been unjustly enriched.

72. Defendants have been unjustly enriched at the expense -of *laintiff and the Plaintiff class. Plaintiff and the Plaintiff class therefore demand restitution and judgment against the Defendants jointly, severally and/or in the alternative, in an amount in excess of the jurisdictional limits of this Court and to be determined at the trial herein, together with interest, exemplary or punitive damages, attorney's fees and the costs of this action..

PRAYER FOR RELIEF

WHEREFORE Plaintiff and the Plaintiff class demand a jury trial and judgment and damages against the Defendants, jointly, severally and/or in the alternative, as follows:

- (1) For an order certifying -the Plaintiff class alleged~herein;
- (2) For an accounting;

- (3) For the appointment of an independent historic commission;
- (4) For the imposition of a constructive trust;
- (5) For restitution of the value of their ancestors' slave labor;
- (6) For restitution of the value of their unjust enrichment based upon slave labor;
- (7) For disgorgement of illicit profits;
- (8) For compensatory damages in an amount to be determined by trial together with interest;
- (9) For exemplary or punitive damages in an amount to be determined at trial;
- (10) For attorneys' fees; and
- (11) For the cost of this action.

Dated: May 1, 2002

_____, Ne& Jersey

a7^B Y:: . By: k e d, ! g - j

(BN-676;)

JAY J/RICE, ESQ. (JR-9171j.
DIANE E. SAMMONS (DS-9029)
NAGEL RICE DREIFUSS & MAZIE
301 South Livingston Avenue
Livingston, New Jersey 07039
973) 535-3100.

(EF-4125;.

FAGAN & ASSOCIATES
301 South Livingston Avenue
Livingston, NJ 07039
(973) 994-2908

ROGER S. WAREHAM, ESQ. (RW 4751)
JOMO SANGA THOMAS, ESQ (JT 7544)
THOMAS WAREHAM & RICHARDS
527 Flatbush Avenue, Suite 2
Brooklyn, New York 11225
(718) 941-6407

BRYAN R. WILLIAMS, ESQ.
(BW 1602)
46 Trinity Place, 4* Floor
New York, New York 10006
(212) 797-4600

MORSE GELLER, ESQ.
116-10 Queens. Boulevard
Forest Hills, New York 11375
(718) 520-0300