

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTWOIN HUNT, JAMES ZOLLICOFFER,
NORMAN GREEN, JAMES LEWIS and
KEVIN JAMES, on behalf of themselves and
other similarly situated laborers,

Plaintiffs,

v.

PERSONNEL STAFFING GROUP, LLC
d/b/a MVP, THE SEGERDAHL CORP.,
MERCURY PLASTICS, INC., MPS
CHICAGO, INC. d/b/a JET LITHO, THE
PENRAY COMPANIES, INC.,
ADVERTISING RESOURCES, INC. d/b/a
ARI PACKAGING, LAWRENCE FOODS,
INC. and BLOMMER CHOCOLATE
COMPANY,

Defendants.

Case No. 16-cv-11086

Honorable Judge John J. Tharp, Jr.

Magistrate: Judge Sheila Finnegan

**DEFENDANT ADVERTISING RESOURCES INC.'S
MOTION FOR JUDGMENT ON THE PLEADINGS REGARDING
PLAINTIFFS' TIME-BARRED § 1981 CLAIMS**

Pursuant to Fed. R. Civ. P. 12(c), Defendant Advertising Resource Inc. ("ARI") hereby joins the Rule 12(b)(6) Motion to Dismiss filed by Defendants The Segerdahl Corp. ("Segerdahl") and Lawrence Foods ("Lawrence"), Docket No. 51. In joining the Motion to Dismiss, ARI moves this Court for entry of judgment in favor of ARI for Plaintiffs' Section 1981 claims alleged in Count VI of Plaintiffs' Class Action Complaint ("Complaint") that are based on events occurring before December 6, 2014. All such claims are time-barred by the applicable two-year statute of limitations, Plaintiffs having first filed this lawsuit on December 6, 2016.

ARI hereby incorporates the Motion to Dismiss (Dkt. No. 51) and supporting Memorandum of Law (Dkt. 53) filed by Defendants Segerdahl and Lawrence into ARI's Motion for Judgment on the Pleadings. In further support hereof, ARI states:

1. Plaintiffs assert that Defendant MVP, a temporary labor agency, and certain of MVP's alleged client companies, including ARI, discriminated against African American temporary laborers in violation of the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981 ("Section 1981"). See Compl. ¶ 1.

2. Count VI of Plaintiffs' Complaint asserts that ARI violated Section 1981 because of its "discriminatory practices in hiring." See Compl. ¶ 126.

3. Plaintiffs' Complaint seeks to certify an "ARI Subclass" of "All African-Americans who sought work assignments...and were eligible to work at Advertising Resources, Inc. d/b/a ARI Media at any time between December 6, 2012 and the date of judgment..." See *id.* at ¶ 82(e).

4. Defendant ARI filed its Answer to Plaintiffs' Complaint on February 17, 2017. Dkt. No. 35.

5. In its Answer, Defendant ARI asserted that Plaintiffs' Section 1981 claims were time-barred to the extent they did not comply with the applicable two-year statute of limitations. See *id.* at p. 52, Twelfth Defense.

6. A Rule 12(c) Motion for Judgment on the Pleadings is reviewed under the same standard as a Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim, the primary difference being that a Rule 12(c) motion is filed after an Answer. See *Buchanan-Moore v. County of Milwaukee*, 570 F.3d 824, 827 (7th Cir. 2009) (stating that a Rule 12(c) motion is filed after an answer but reviewed under the same standard as a Rule 12(b)(6) motion); *Pisciotta v.*

Old National Bancorp, 499 F.3d 629, 633 (7th Cir. 2007); Northern Indiana Gun & Outdoor Shows, Inc. v. City of South Bend, 163 F.3d 449, 452 (7th Cir. 1998).

7. A Rule 12(c) Motion for Judgment on the Pleadings is an appropriate mechanism for challenging claims that are time-barred by a statute of limitations. See *Brownmark Films, LLC v. Comedy Partners*, 682 F.3d 687, 690 (7th Cir. 2012) (noting that it is well-established in the 7th Circuit that Rule 12(c) is appropriate for raising a statute of limitations challenge); *Brooks v. Ross*, 578 F.3d 574, 579 (7th Cir. 2009); *Frey v. Bank One*, 91 F.3d 45 (7th Cir. 1996) (granting a Rule 12(c) motion on statute of limitations grounds).

WHEREFORE, for the above and foregoing reasons and those stated in the Motion to Dismiss and supporting Memorandum of Law previously filed by Defendants Segerdahl and Lawrence, Defendant ARI respectfully requests that the Court enter an order:

1. dismissing with prejudice all of Plaintiffs' Section 1981 claims alleged in Count VI of the Complaint to be based on events occurring before December 6, 2014;
2. dismissing all related paragraphs of the Complaint that purport to apply a four-year statute of limitations to Plaintiffs' Section 1981 Claims, specifically ¶¶ 1, 42-52, 54-67, 81, 82(a)-(g), and 83(b) thereof, including Plaintiffs' definition of the alleged "ARI Subclass"; and
3. granting such other, further, or additional relief in ARI's favor and against Plaintiffs as this Court deems fair, just, and equitable.

Because Defendant ARI is joining the Motion to Dismiss filed by Defendants Segerdahl and Lawrence, ARI's Motion is based on the same facts and law as the Motion to Dismiss, and the two Motions are reviewed under the same standard, ARI does not believe that separate or additional briefing is required from the Parties.

DATED: March 22, 2017

ADVERTISING RESOURCES, INC.

By: s/ Katherine F. Mendez

One of Its Attorneys

Richard P. McArdle
Jennifer A. Riley
Katherine F. Mendez
SEYFARTH SHAW LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
Telephone: (312) 460-5000
rmcardle@seyfarth.com
jriley@seyfarth.com
kmendez@seyfarth.com

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Alvar Ayala
Workers' Law Office, P.C.
53 W Jackson Blvd, Suite 701
Chicago, IL 60604
aayala@wagetheftlaw.com

Plaintiff Attorney

Joseph M Sellers
Cohen, Milstein, Sellers & Toll
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005-3934
jsellers@cohenmilstein.com

Plaintiff Attorney

Shaylyn Capri Cochran
Cohen Milstein Sellers & Toll, Pllc
1100 New York Ave., Nw, Suite 500
Washington, DC 20005
scochran@cohenmilstein.com

Plaintiff Attorney

Carter A. Korey
Korey Richardson LLC
20 S. Clark Street, Suite 500
Chicago, IL 60603
ckorey@koreyrichardsonlaw.com

Defendant, Personnel Staffing Group, LLC

Christopher J. Williams
Workers' Law Office, PC
53 W Jackson Blvd., Suite 701
Chicago, IL 60604
cwilliams@wagetheftlaw.com

Plaintiff Attorney

Miriam Rose Nemeth
Cohen Milstein Sellers & Toll, Pllc
1100 New York Ave., Nw, Suite 500
Washington, DC 20005
(202) 408-4600
mnemeth@cohenmilstein.com

Plaintiff Attorney

Elliot S. Richardson
Korey Richardson LLC
20 South Clark Street, Suite 500
Chicago, IL 60603
erichardson@koreyrichardsonlaw.com

Defendant, Personnel Staffing Group, LLC

Britney Zilz
Korey Richardson LLC
20 S. Clark Street. Suite 500
Chicago, IL 60603
bzilz@koreyrichardsonlaw.com

Defendant, Personnel Staffing Group, LLC

Anne E. Larson
Ogletree, Deakins, Nash, Smoak & Stewart
155 North Wacker
Suite 4300
Chicago, IL 60606
312-558-1253
Fax: 312-807-3619
anne.larson@ogletreedeakins.com

Defendant, MPS Chicago, Inc.

Phillip Michael Schreiber
Holland & Knight LLC
131 South Dearborn Street
30th Floor
Chicago, IL 60603-2511
(312)263-3600
Email: phillip.schreiber@hklaw.com

Defendant, Mercury Plastics, Inc.

Katherine A. Manuel
Ogletree, Deakins, Nash, Smoak & Stewart,
P.C.
155 N. Wacker Drive
Suite 4300
Chicago, IL 60606
(312) 558-1220
katherine.manuel@ogletreedeakins.com

Defendant, MPS Chicago, Inc.

By: s/ Katherine F. Mendez
Attorney for Defendant Advertising
Resources, Inc.