EGT

U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:10-cv-23949-FAM

Moilere v. Phyamerica Government Services, Inc.
Assigned to: Chief Judge Federico A. Moreno
Cause: 42:1981 Job Discrimination (Race)

Date Filed: 11/01/2010
Jury Demand: Plaintiff
Nature of Suit: 790 Labor: Other
Jurisdiction: Federal Question

Plaintiff

Louise Moilere represented by **Louise Moilere**
1040 NW 198th Street
Miami, FL 33169
PRO SE

Jolima M Caballero-Solis
14691 SW 170th St.
Miami, FL 33177
786-242-8114
Email: attorneycaballero@gmail.com
TERMINATED: 05/16/2011
ATTORNEY TO BE NOTICED

Anthony Maximillien Georges-Pierre
Remer & Georges-Pierre PLLC
11900 Biscayne Boulevard
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305-416-5000
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TERMINATED: 05/16/2011
ATTORNEY TO BE NOTICED

V.

Defendant

Phyamerica Government Services, Inc. represented by **Rene Mark Fix**
Rogers Towers
1301 Riverplace Boulevard
Suite 1500
Jacksonville, FL 32207
904-398-3911
Fax: 396-0663
Email: rfix@rtlaw.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/01/2010	1	COMPLAINT against Phyamerica Government Services, Inc.. Filing fee $ 350.00 receipt number 113C-3275631, filed by Louise Moilere. (Attachments: # 1 Civil Cover Sheet, # 2 Summon(s))(Georges-Pierre, Anthony) (Entered: 11/01/2010)
11/01/2010	2	Judge Assignment RE: Electronic Complaint to Chief Judge Federico A. Moreno (jc) (Entered: 11/01/2010)
11/01/2010	3	Summons Issued as to Phyamerica Government Services, Inc.. (jc) (Entered: 11/01/2010)
11/29/2010	4	*Defendant's* ANSWER and Affirmative Defenses to Complaint by Phyamerica Government Services, Inc..(Fix, Rene) (Entered: 11/29/2010)
12/01/2010	5	Corporate Disclosure Statement by Phyamerica Government Services, Inc. identifying Corporate Parent Sterling Group Government Holdings, LLC for Phyamerica Government Services, Inc. (Fix, Rene) (Entered: 12/01/2010)
12/03/2010	6	SCHEDULING ORDER: (Jury Trial set for 5/23/2011 before Chief Judge Federico A. Moreno., Calendar Call set for 5/17/2011 02:00 PM in Miami Division before Chief Judge Federico A. Moreno., Amended Pleadings due by 12/22/2010., Discovery due by 3/8/2011., Joinder of Parties due by 12/22/2010., In Limine Motions due by 3/31/2011., Dispositive Motions due by 3/31/2011., Pretrial Stipulation due by 5/10/2011.), ORDER REFERRING CASE to Mediation. (Mediation Deadline 3/31/2011.). Signed by Chief Judge Federico A. Moreno on 12/3/2010. (lk) (Entered: 12/06/2010)
12/16/2010	7	NOTICE of Mediator Selection: Neil Flaxman selected.(Georges-Pierre, Anthony) (Entered: 12/16/2010)
12/17/2010	8	CERTIFICATE of Interested Party by Louise Moilere (Georges-Pierre, Anthony) (Entered: 12/17/2010)
01/07/2011	9	Notice of Mediation Hearing before Mediator, Neil Flaxman filed by Neil Flaxman. Mediation Hearing set for 3/10/2011 10:00 AM (Flaxman, Neil) (Entered: 01/07/2011)
02/28/2011	10	NOTICE of Attorney Appearance by Jolima M Caballero-Solis on behalf of Louise Moilere (Caballero-Solis, Jolima) (Entered: 02/28/2011)
03/14/2011	11	NOTICE by Louise Moilere *of Designation of Mediator* (Attachments: # 1 Text of Proposed Order)(Georges-Pierre, Anthony) (Entered: 03/14/2011)
03/15/2011	12	Defendant's MOTION for Summary Judgment *and Memorandum of Law in Support* by Phyamerica Government Services, Inc.. Responses due by 4/1/2011 (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P)(Fix, Rene) (Entered: 03/15/2011)
03/17/2011	13	TWENTY DAY NOTICE OF CONSIDERATION OF MOTION FOR

		SUMMARY JUDGMENT. Signed by Chief Judge Federico A. Moreno on 3/16/2011. (mmd) (Entered: 03/17/2011)
03/21/2011	14	AMENDED TWENTY DAY NOTICE OF CONSIDERATION OF MOTION FOR SUMMARY JUDGMENT. Signed by Chief Judge Federico A. Moreno on 3/18/2011. (mmd) (Entered: 03/21/2011)
03/24/2011	15	REPORT of Mediation Disposition: Adjournment(Flaxman, Neil) (Entered: 03/24/2011)
03/29/2011	16	FINAL REPORT of Mediation Disposition: Impasse(Flaxman, Neil) (Entered: 03/29/2011)
04/06/2011	17	RESPONSE/REPLY *PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND SUPPORTING MEMRANDUM OF LAW* by Louise Moilere. (Georges-Pierre, Anthony) (Entered: 04/06/2011)
04/06/2011	18	ORDER of Continuance and Order Revising Pretrial Deadlines. Jury Trial set for 6/20/2011 before Chief Judge Federico A. Moreno. Calendar Call set for 6/14/2011 02:00 PM in Miami Division before Chief Judge Federico A. Moreno. Pretrial Stipulation due by 6/7/2011. Signed by Chief Judge Federico A. Moreno on 4/5/2011. (lbc) (Entered: 04/06/2011)
04/08/2011	19	REPLY to Response to Motion re 12 Defendant's MOTION for Summary Judgment *and Memorandum of Law in Support* filed by Phyamerica Government Services, Inc.. (Fix, Rene) (Entered: 04/08/2011)
05/09/2011	20	MOTION to Withdraw as Attorney by Anthony Georges-Pierre. by Louise Moilere. Responses due by 5/26/2011 (Georges-Pierre, Anthony) (Entered: 05/09/2011)
05/16/2011	21	ORDER granting 20 Motion to Withdraw as Attorney. Signed by Chief Judge Federico A. Moreno on 5/16/2011.(mmd) (Entered: 05/16/2011)
06/02/2011	22	Defendant's MOTION to Continue *Pretrial Deadlines and Memorandum of Law in Support* by Phyamerica Government Services, Inc.. Responses due by 6/20/2011 (Attachments: # 1 Exhibit Composite Exhibit A)(Fix, Rene) (Entered: 06/02/2011)
06/03/2011	23	NOTICE by Phyamerica Government Services, Inc. re 22 Defendant's MOTION to Continue *Pretrial Deadlines and Memorandum of Law in Support Supplementing Its* (Fix, Rene) (Entered: 06/03/2011)
06/07/2011	24	ORDER REQUIRING PLAINTIFF TO APPEAR AT CALENDAR CALL. Signed by Chief Judge Federico A. Moreno on 6/7/2011. (mmd) (Entered: 06/07/2011)
06/09/2011	25	PRETRIAL MEMORANDUM *Defendant's Unilateral Pretrial Statement* by Phyamerica Government Services, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Fix, Rene) (Entered: 06/09/2011)
06/14/2011	26	Minute Entry for proceedings held before Chief Judge Federico A. Moreno: Calendar Call held on 6/14/2011. Court Reporter: Gilda Pastor-Hernandez,

		305-523-5118 / Gilda_Pastor-Hernandez@flsd.uscourts.gov (mno) (Entered: 06/15/2011)
06/16/2011	27	ORDER RESETTING CALENDAR CALL and TRIAL. Signed by Chief Judge Federico A. Moreno on 6/14/2011. (mmd) (Entered: 06/16/2011)
06/17/2011		Set/Reset Deadlines/Hearings as per DE 27 Calendar Call set for 6/28/2011 02:00 PM in Miami Division before Chief Judge Federico A. Moreno. Jury Trial set for 7/5/2011 02:00 PM in Miami Division before Chief Judge Federico A. Moreno. (lk) (Entered: 06/17/2011)
06/28/2011	28	Minute Entry for proceedings held before Chief Judge Federico A. Moreno: Calendar Call held on 6/28/2011. Court Reporter: Gilda Pastor-Hernandez, 305-523-5118 / Gilda_Pastor-Hernandez@flsd.uscourts.gov (sc) (Entered: 06/29/2011)
06/29/2011	29	ORDER SETTING TRIAL. Trial set for July 14, 2011 at 9:00 AM. Signed by Chief Judge Federico A. Moreno on 6/29/2011. (mmd) (Entered: 06/29/2011)
06/30/2011		Set/Reset Scheduling Order Deadlines as per DE 29 : Jury Trial set for 7/14/2011 09:00 AM in Miami Division before Chief Judge Federico A. Moreno. (lk) (Entered: 06/30/2011)

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Billable Pages:	3	**Cost:**	0.24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO.:

LOUISE MOILERE,

Plaintiff,

vs

PHYAMERICA GOVERNMENT SERVICES, INC.,
A Foreign Profit Corporation

Defendant.
_____/

COMPLAINT

The Plaintiff, LOUISE MOILERE (hereinafter "MOILERE"), by and through the undersigned counsel, hereby sues Defendant, PHYAMERICA GOVERNMENT SERVICES, INC., (hereinafter "PHYAMERICA"), and in support avers as follows:

INTRODUCTION

1. This is an action by the Plaintiff, PHYAMERICA, for declaratory and injunctive relief and damages under 42 U.S.C. §1981 (Civil Rights Act of 1866) and the Florida Civil Rights Act of 1992 (FCRA), Florida Statute Section 760, to redress injury done to him by the Defendant, PHYAMERICA's discriminatory treatment on the basis of race and national origin.

2. On May 25, 2007, Plaintiff filed a complaint alleging discrimination on the basis of race and national origin with the EEOC. (See attached Exhibit "A")

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JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiff's 42 U.S.C. §1981 claims pursuant to 28 U.S.C. §1331, §1343, and §1367. This action is authorized and instituted pursuant to 42 U.S.C §1981 (Civil Rights Act of 1866) and the Florida Civil Rights Act of 1992 (FCRA), Florida Statute Section 760.

4. The venue of this action is properly placed in the Southern District of Florida, Miami Division, pursuant to 28 U.S.C. §1391(b), because the events/employment practices hereafter alleged to be unlawful were committed in Miami-Dade County, within the jurisdiction of this Honorable Court.

PARTIES

5. At all times relevant, MOILERE was employed by PHYAMERICA and the parties had a contractual relationship with each other.

6. Plaintiff, is a resident of Miami-Dade County, Florida and continues to reside in Miami-Dade County, and resided in said County during the time of her employment with the Defendant, within the jurisdiction of this Honorable Court.

7. Plaintiff is a Black female individual of Haitian national origin and is a member of a class of persons protected from discrimination in her employment under 42 U.S.C. §1981 and the Florida Civil Rights Act of 1992 (FCRA), Florida Statute Section 760.

8. Defendant is a Foreign Profit Corporation authorized to conduct business in the State of Florida, in Miami-Dade County, Florida, and within the jurisdiction of this Court.

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BACKGROUND AND FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

9. Defendant PHYAMERICA is a government healthcare company located in Florida.

10. Plaintiff MOILERE was employed by Defendant PHYAMERICA on or about December 1, 2006 as a Certified Nursing Assistant associate in Defendant healthcare company for a total of approximately **24 weeks.**

11. Plaintiff showed exemplary performance and performed all required duties during her entire employment with Defendant/Employer.

12. Defendant/Employer's agents – supervisors, specifically Laurie Alvis, discriminated against and treated Plaintiff differently than other similarly-situated White non-Black, non-Haitian Rican employees.

13. Defendant's agent, Plaintiff's supervisor Laurie Alvis, subject Plaintiff to discriminatory practices.

14. Defendant's agent, Plaintiff's supervisor Laurie Alvis, has made several derogatory comments regarding Plaintiff. While at a company meeting, Ms. Alvis commented, "I am going to rid of all Haitians." Every time a Haitian, including Plaintiff, would walk into her office, Ms. Alvis would cover her nose and tell Plaintiff (and other Haitians) to get out or we will get fired.

15. Plaintiff has been denied a raise, overtime hours, and an opportunity for promotion because of her race and/or national origin.

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16. Defendant cut Plaintiff's hours from Forty (40) hours per week to Thirty (30) hours per week because of her race and/or national origin and her complaints regarding the discrimination she endured.

17. Defendant also put Plaintiff on leave on or about May 21, 2007 because of her race and/or national origin and her complaints regarding the discrimination she endured. This leave ultimately resulted in Defendant's constructive termination of Plaintiff.

18. During the course of his employment with the Defendant, Defendant's agents continually and repeatedly subjected the Plaintiff to severe and pervasive racial discrimination.

19. These supervisors treated White employees more favorably than Plaintiff.

20. Specifically, Plaintiff was unfairly reprimanded by Defendant's supervisors when similarly-situated White employees were not penalized when they did the same things.

21. Plaintiff was consistently treated differently by Defendant than the similarly-situated non-Black and/or non-Haitian employees because of her race and/or national origin beginning when Plaintiff began working for Defendant.

22. Plaintiff was terminated on or about May 21, 2007 for the sole reason being her race and/or national origin.

23. Plaintiff was closely scrutinized for every action she took at work, while other similarly-situated White employees were not.

24. Plaintiff complainded of the discriminatory treatment, but nothing was done to resolve the situation.

25. Defendant's reason for terminating Plaintiff was a mere pre-text.

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26 Defendant filed a complaint with the Florida Commission on Human Relations and the EEOC alleging the discrimination on the basis of race and national origin as well as retaliation for reporting such discrimination with the Florida Commission on Human Relations and the EEOC.

27. Plaintiff received a Right to Sue from the EEOC on or about August 7, 2008.

COUNT I. DISCRIMINATION BASED ON RACE IN VIOLATION OF 42 U.S.C. §1981

28. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-27 of this complaint as if set out in full herein.

29. At all times material hereto Defendant, PHYAMERICA, was an "employer" within the meaning of Section 42 U.S.C. §1981.

30. At all times material hereto, Plaintiff, MOILERE, was an "employee" within the meaning of 42 U S C. §1981

31. The Plaintiff had been employed by Defendant since on or about December 1, 2006 as a Certified Nursing Assistant.

32. At all relevant times, Plaintiff was and continues to be qualified for the position formerly held with the Defendant.

33. At all times material hereto, the Plaintiff's job performance was satisfactory or above satisfactory.

34. Plaintiff was terminated from her employment on or about May 29, 2007.

35. Defendant has engaged in a pattern of continuous discrimination against Plaintiff.

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36. During the course of her employment with the Defendant, the Plaintiff was continually and repeatedly subjected to severe and pervasive racial discrimination by Defendant's agents.

37. Defendant crafted and implemented a plan to eventually terminate Plaintiff based upon her race. Defendant also confected a subterfuge in an attempt to hide their blatant and unlawful discriminatory motivation.

38. Plaintiff was singled out for treatment in a discriminatory manner by Defendant because of her race.

39. Defendant's conduct complained of herein was willful and in disregard of Plaintiff's protected rights Defendant, and its supervisory personnel were aware that discrimination on the basis of race was unlawful but acted in reckless disregard of the law.

40. Defendant, through the actions of its agents, outrageously disregarded the requirements to investigate and remedy claims of discrimination.

41. The actions and language of the Defendant were so severe and pervasive as to alter the terms, conditions and/or privileges of her employment with the Defendant, and thereby creating a hostile work environment.

42. The actions of the Defendant were based upon the Plaintiff being a black individual. The Defendant subjected the Plaintiff to race based animosity.

43. The Plaintiff would have continued in her form of employment with entitlement to her wages and benefits but for the discriminatory conduct of the Defendant

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44. When the Defendant terminated the Plaintiff's employment, it retained all employees involved who exhibited discriminatory conduct upon the Plaintiff. The Defendant did so despite the knowledge of those employees engaging in discriminatory actions and/or comments and thereby fostering a hostile work environment for Black individuals.

45. The discrimination was based upon the Plaintiff's race, in that but for the fact that the Plaintiff is Black, she would not have been the object of discrimination.

46. As a result of the actions of the Defendant, as alleged herein, the Plaintiff has been deprived of her employment and has been exposed to ridicule and embarrassments and she has suffered emotional distress and damage.

47. At all times material hereto, the employees exhibiting discriminatory conduct towards Plaintiff were all in a position that possessed the authority to affect the terms, conditions, and privileges of the Plaintiff's employment with the Defendant.

48. The Plaintiff, by being subjected to this hostile and offensive work environment created by the Defendant, was unreasonably affected in a term, condition, or privilege of employment under applicable law in that her psychological well-being was seriously affected when the work place became hostile.

49. The conduct of the Defendant, by and through the conduct of its agents, employees, and/or representatives, and the Defendant's failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of her statutory right under federal law.

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50. The actions of the Defendant and/or agents were willful, wanton, and intentional and with malice or reckless indifference to the Plaintiff's statutorily protected rights, thus entitling Plaintiff to damages in the form of compensatory and punitive damages pursuant to federal law, to punish the Defendant for its actions and to deter it, and others, from such action in the future

51 The Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of the Defendant's discriminatory practices unless and until this Court grants relief.

52. The Plaintiff has retained undersigned counsel to prosecute her claim and is entitled to attorney's fees pursuant to 42 U.S.C. §1988, the Civil Rights Attorneys Fee Award Act.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

A. Enter judgment for Plaintiff and against the Defendant on the basis of Defendant's willful violations of 42 U.S.C. §1981; and

B. Award Plaintiff compensatory damages including front pay, back pay, and lost benefits; and

C. Award Plaintiff as to this count prejudgment interest; and

D. Award Plaintiff damages for the amount of the costs of litigation and filing including attorney's fees; and

E. Grant such other and further equitable relief as this court deems equitable and just and/or available pursuant to Federal Law including punitive damages.

F. Plaintiff demands a trial by jury.

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COUNT II. RETALIATION IN VIOLATION OF 42 U.S.C. §1981

53. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-52 of this complaint as if set out in full herein.

54. Plaintiff and Defendant had a contractual relationship.

55. Defendant precluded Plaintiff from performing the stated contractual relationship when Defendant terminated Plaintiff.

56. Defendant terminated Plaintiff's contractual relationship in retaliation for Plaintiff's opposition to unlawful employment practices based on race and national origin as more particularly described above.

57. Plaintiff was unable to enjoy all the benefits, privileges, terms and conditions of the contractual relationship.

58. Defendant has acted with malice and/or reckless disregard for Plaintiff's protected rights.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

A. Enter judgment for Plaintiff and against the Defendant on the basis of Defendant's willful violations of 42 U.S.C. §1981; and

B Award Plaintiff compensatory damages including front pay, back pay, and lost benefits; and

C. Award Plaintiff as to this count prejudgment interest; and

D. Award Plaintiff damages for the amount of the costs of litigation and filing including attorney's fees; and

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E. Grant such other and further equitable relief as this court deems equitable and just and/or available pursuant to Federal Law including punitive damages.

F Plaintiff demands a trial by jury.

COUNT III. DISCRIMINATION BASED ON RACE IN VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992, CHAPTER 760

59. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-58 of this complaint as if set out in full herein.

60. At all times material hereto, the Employer/Defendant failed to comply with the Florida Civil Rights Act of 1992 [Florida Statutes Section 760.10] which states: "It is an unlawful employment practice for an employer to discharge or to fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status."

61. The discrimination and termination of Plaintiff by Defendant was on the basis of Plaintiff being a Black Individual.

62. At all relevant times mentioned, including the time of termination of Plaintiff, Defendant was aware that Plaintiff was a Black individual

63. At the time discharge from employment with Defendant, Plaintiff did perform and excel at the performance of the essential functions of her position.

64. The Plaintiff was qualified for the position held with the Defendant.

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65. Plaintiff was fired and treated differently from other employees by her supervisors working for Defendant on the basis of race.

66. The termination of Plaintiff from employment with Defendant and other acts were directly and proximately caused by the Defendant's unjustified discrimination against Plaintiff because of her race while working for Defendant in violation of Florida Statute Section 760.

67. As a direct and proximate result of the Defendant's intentional conduct, Plaintiff suffered serious economic losses as well as mental pain and suffering.

68. Any alleged nondiscriminatory reason for this treatment of Plaintiff asserted by Defendant is a mere pretext for the actual reason for termination, her race.

69. The Defendant's actions were malicious and were recklessly indifferent to the Plaintiff's rights pursuant to Florida Statute Section 760, protecting a person from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

70. The aforementioned actions of Defendant were done wantonly, willfully, maliciously, and with reckless disregard of the consequences of such actions.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all person in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race.

B. Reinstate Plaintiff to the same position she held before the retaliatory personnel action, or to an equivalent position.

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C. Reinstate full fringe benefits and seniority rights to Plaintiff.

D. Order Defendant to make Plaintiff whole, by compensating Plaintiff for lost wages, benefits, including front pay, back pay, with prejudgment interest and other remuneration for mental pain, anguish, pain and humiliation from being terminated due to race.

E. For a money judgment representing prejudgment interest.

F. Award any other compensation allowed by lw including punitive damages, attorney's fees pursuant to Florida Statute §448.104.

G. Plaintiff demands a trial by jury.

COUNT IV. DISCRIMINATION BASED ON NATIONAL ORIGIN IN VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992, CHAPTER 760

71 Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-70 of this complaint as if set out in full herein.

72. At all times material hereto, the Employer/Defendant failed to comply with the Florida Civil Rights Act of 1992 [Florida Statutes Section 760.10] which states: "It is an unlawful employment practice for an employer to discharge or to fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status."

73. The discrimination and termination of Plaintiff by Defendant was on the basis of Plaintiff being of Haitian national origin.

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74. At all relevant times mentioned, including the time of termination of Plaintiff, Defendant was aware that Plaintiff is of Haitian national origin.

75. At the time discharge from employment with Defendant, Plaintiff did perform and excel at the performance of the essential functions of her position.

76. The Plaintiff was qualified for the position held with the Defendant.

77. Plaintiff was fired and treated differently from other employees by her supervisors working for Defendant on the basis of national origin

78. The termination of Plaintiff from employment with Defendant and other acts were directly and proximately caused by the Defendant's unjustified discrimination against Plaintiff because of her national origin while working for Defendant in violation of Florida Statute Section 760.

79. As a direct and proximate result of the Defendant's intentional conduct, Plaintiff suffered serious economic losses as well as mental pain and suffering.

80. Any alleged nondiscriminatory reason for this treatment of Plaintiff asserted by Defendant is a mere pretext for the actual reason for termination, her national origin.

81. The Defendant's actions were malicious and were recklessly indifferent to the Plaintiff's rights pursuant to Florida Statute Section 760, protecting a person from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

82. The aforementioned actions of Defendant were done wantonly, willfully, maliciously, and with reckless disregard of the consequences of such actions.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

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A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all person in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of national origin

B. Reinstate Plaintiff to the same position she held before the retaliatory personnel action, or to an equivalent position.

C. Reinstate full fringe benefits and seniority rights to Plaintiff.

D. Order Defendant to make Plaintiff whole, by compensating Plaintiff for lost wages, benefits, including front pay, back pay, with prejudgment interest and other remuneration for mental pain, anguish, pain and humiliation from being terminated due to national origin.

E. For a money judgment representing prejudgment interest.

F. Award any other compensation allowed by law including punitive damages, attorney's fees pursuant to Florida Statute §448.104.

G. Plaintiff demands a trial by jury.

Dated: 11/1/10

Respectfully submitted,

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Fax: (305) 416-5005

By: Anthony M. Georges-Pierre
Anthony M. Georges-Pierre, Esq.
Florida Bar No.: 0533637

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) — **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS
Louise Moitere

DEFENDANTS
Phiamerica Government Services, Inc.

(b) County of Residence of First Listed Plaintiff: Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant: Durham
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)
Renord-Georges-Pierre, PLLC
11900 Biscayne Blvd, Ste 288
North Miami, Fl 33181
(305) 416-5000

Attorneys (If Known)

(d) Check County Where Action Arose: ☒ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff
☑ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☑ 4
Citizen of Another State	☐ 2	☑ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS
PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury
PERSONAL INJURY
☐ 362 Personal Injury - Med. Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☑ 442 Employment
☐ 443 Housing/ Accommodations
☐ 444 Welfare
☐ 445 Amer. w/Disabilities - Employment
☐ 446 Amer. w/Disabilities - Other
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PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence
Habeas Corpus:
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FORFEITURE/PENALTY
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LABOR
☐ 710 Fair Labor Standards Act
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☐ 870 Taxes (U.S. Plaintiff or Defendant)
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☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgement

VI. RELATED/RE-FILED CASE(S)

(See instructions second page):
a) Re-filed Case ☐ YES ☑ NO — JUDGE
b) Related Cases ☐ YES ☑ NO — DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
42 USC 1981 Discrimination - Race + National origin

LENGTH OF TRIAL via 3-4 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD: Anthony M. Georges-Pierre
DATE: 11/1/10

FOR OFFICE USE ONLY
AMOUNT _____ RECEIPT # _____ IFP _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO.:

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICA GOVERNMENT SERVICES, INC.,
A Foreign Profit Corporation

Defendant.
_____/

SUMMONS IN A CIVIL CASE

TO:

PHYAMERICA GOVERNMENT SERVICES, INC.
Through its Registered Agent:
CT Corporation System
1200 S. Pine Island Road
Plantation, Florida33324

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

ANTHONY GEORGES-PIERRE, ESQ.
REMER & GEORGES-PIERRE, PLLC.
11900 BISCAYNE BLVD., SUITE 288
MIAMI, FL 33181

An answer to the complaint which is herewith served upon you, within ___21___ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

_____ _____
CLERK DATE

_____
(BY) DEPUTY CLERK

REMER & GEORGES-PIERRE, PLLC
ATTORNEYS AT LAW

BISCAYNE CENTRE * 11900 Biscayne Blvd. * Suite 288 * North Miami, FL 33181
Telephone: (305)416-5000 * Facsimile: (305)416-5005

JS 44 (Rev 11/05)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS
Louise Matere

DEFENDANTS
Pharmerica Government Services, Inc.

(b) County of Residence of First Listed Plaintiff: Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant: Durham
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Rower & Georges-Pierre, PLLC
11900 Biscayne Blvd, Ste 288
North Miami, Fl 33181
(305) 416-5000

Attorneys (If Known)

(d) Check County Where Action Arose: ☒ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

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☐ 490 Cable/Sat TV
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☐ 892 Economic Stabilization Act
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VI. RELATED/RE-FILED CASE(S).

(See instructions second page): a) Re-filed Case ☐ YES ☑ NO b) Related Cases ☐ YES ☑ NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 42 USC 1981 Discrimination - Race & National Origin

LENGTH OF TRIAL via 3-4 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE 11/1/10

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

LOUISE MOILERE,

Plaintiff,

vs. **CASE NO.: 1:10-23949-CIV-FAM**

PHYAMERICA GOVERNMENT SERVICES, INC., A Foreign Profit Corporation,

Defendant.
_____/

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

Defendant PhyAmerica Government Services, Inc. answers Plaintiff Louise Moilere's Complaint as follows:

INTRODUCTION

1. Defendant admits that Plaintiff alleges various causes of action for alleged discrimination. Defendant denies that it engaged in any unlawful conduct with respect to Plaintiff.

2. Defendant denies the allegation set forth in paragraph 2 for lack of knowledge. Defendant otherwise denies the allegations set forth in paragraph 2.

JURISDICTION AND-VENUE

3. Defendant admits that this Court has subject matter jurisdiction over the claims asserted. Defendant otherwise denies the allegations set forth in paragraph 3.

4. Defendant admits that venue over the claims asserted is proper in this Court. Defendant otherwise denies the allegations set forth in paragraph 4.

PARTIES

5. Defendant denies the allegations set forth in paragraph 5.

6. Defendant denies the allegations set forth in paragraph 6 for lack of knowledge.

7. Defendant denies the allegations set forth in paragraph 7 for lack of knowledge concerning Plaintiff's race and/or national origin. Defendant otherwise denies the allegations set forth in paragraph 7.

8. Defendant admits the allegations set forth in Paragraph 8.

BACKGROUND AND FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

9. Defendant avers that the allegations set forth in paragraph 9 are vague and ambiguous. Defendant otherwise denies the allegations set forth in paragraph 9.

10. Defendant avers that the allegations set forth in paragraph 10 are vague and ambiguous. Defendant admits that Plaintiff was a former employee of Defendant. Defendant otherwise denies the allegations set forth in paragraph 10.

11. Defendant denies the allegations set forth in paragraph 11.

12. Defendant denies the allegations set forth in paragraph 12.

13. Defendant denies the allegations set forth in paragraph 13.

14. Defendant denies the allegations set forth in paragraph 14.

15. Defendant denies the allegations set forth in paragraph 15.

16. Defendant denies the allegations set forth in paragraph 16.

17. Defendant denies the allegations set forth in paragraph 17.

18. Defendant denies the allegations set forth in paragraph 18.

19. Defendant denies the allegations set forth in paragraph 19.

20. Defendant denies the allegations set forth in paragraph 20.

21. Defendant denies the allegations set forth in paragraph 21.

22. Defendant denies the allegations set forth in paragraph 22.

23. Defendant denies the allegations set forth in paragraph 23.

24. Defendant denies the allegations set forth in paragraph 24.

25. Defendant denies the allegations set forth in paragraph 25.

26. Defendant avers that Plaintiff filed a charge of discrimination against Defendant. The allegations contained in the applicable charge speak for themselves. Defendant otherwise denies the allegations set forth in paragraph 26.

27. Defendant denies the allegations set forth in paragraph 27 for lack of knowledge.

COUNT I. DISCRIMINATION BASED ON RACE IN VIOLATION OF 42 U.S.C. 1981

28. Defendant incorporates by reference its responses to paragraphs 1-27 of the Complaint.

29. Defendant avers that the allegations set forth in paragraph 29 purport to state legal conclusions. Defendant otherwise denies the allegations set forth in paragraph 29.

30. Defendant avers that the allegations set forth in paragraph 30 purport to state legal conclusions. Defendant otherwise denies the allegations set forth in paragraph 30.

31. Defendant denies the allegations set forth in paragraph 31.

32. Defendant avers that the allegations set forth in paragraph 32 purport to state legal conclusions. Defendant otherwise denies the allegations set forth in paragraph 32.

33. Defendant avers that the allegations set forth in paragraph 33 are vague and ambiguous. Defendant otherwise denies the allegations set forth in paragraph 33.

34. Defendant admits the allegations set forth in paragraph 34.

35. Defendant denies the allegations set forth in paragraph 35.

36. Defendant denies the allegations set forth in paragraph 36.

37. Defendant denies the allegations set forth in paragraph 37.

38. Defendant denies the allegations set forth in paragraph 38.

39. Defendant denies the allegations set forth in paragraph 39.

40. Defendant denies the allegations set forth in paragraph 40.

41. Defendant denies the allegations set forth in paragraph 41.

42. Defendant denies the allegations set forth in paragraph 42.

43. Defendant denies the allegations set forth in paragraph 43.

44. Defendant denies the allegations set forth in paragraph 44.

45. Defendant denies the allegations set forth in paragraph 45.

46. Defendant denies the allegations set forth in paragraph 46.

47. Defendant denies the allegations set forth in paragraph 47.

48. Defendant denies the allegations set forth in paragraph 48.

49. Defendant denies the allegations set forth in paragraph 49.

50. Defendant denies the allegations set forth in paragraph 50.

51. Defendant denies the allegations set forth in paragraph 51.

52. Defendant denies the allegations set forth in paragraph 52.

COUNT II - - RETALIATION UNDER 42 U.S.C. § 1981

53. Defendant incorporates by reference its responses to paragraphs 1-52 of the Complaint.

54. Defendant avers that the allegations set forth in paragraph 54 are vague and ambiguous. Defendant otherwise denies the allegations set forth in paragraph 54.

55. Defendant denies the allegations set forth in paragraph 55.

56. Defendant denies the allegations set forth in paragraph 56.

57. Defendant denies the allegations set forth in paragraph 57.

58. Defendant denies the allegations set forth in paragraph 58.

COUNT III - - RACE DISCRIMINATION UNDER THE FLORIDA CIVIL RIGHTS ACT

59. Defendant incorporates by reference its responses to paragraphs 1-58 of the Complaint.

60. Defendant denies the allegations set forth in paragraph 60.

61. Defendant denies the allegations set forth in paragraph 61.

62. Defendant avers that the allegations set forth in paragraph 62 are vague and ambiguous. Defendant otherwise denies the allegations set forth in paragraph 62.

63. Defendant denies the allegations set forth in paragraph 63.

64. Defendant avers that the allegations set forth in paragraph 64 purport to state legal conclusions. Defendant otherwise denies the allegations set forth in paragraph 64.

65. Defendant denies the allegations set forth in paragraph 65.

66. Defendant denies the allegations set forth in paragraph 66.

67. Defendant denies the allegations set forth in paragraph 67.

68. Defendant denies the allegations set forth in paragraph 68.

69. Defendant denies the allegations set forth in paragraph 69.

70. Defendant denies the allegations set forth in paragraph 70.

COUNT IV - - NATIONAL ORIGIN DISCRIMINATION UNDER THE FLORIDA CIVIL RIGHTS ACT

71. Defendant incorporates by reference its responses to paragraphs 1-70 of the Complaint.

72. Defendant denies the allegations set forth in paragraph 72.

73. Defendant denies the allegations set forth in paragraph 73.

74. Defendant denies the allegations set forth in paragraph 74.

75. Defendant denies the allegations set forth in paragraph 75.

76. Defendant avers that the allegations set forth in paragraph 76 purport to state legal conclusions. Defendant otherwise denies the allegations set forth in paragraph 76.

77. Defendant denies the allegations set forth in paragraph 77.

78. Defendant denies the allegations set forth in paragraph 78.

79. Defendant denies the allegations set forth in paragraph 79.

80. Defendant denies the allegations set forth in paragraph 80.

81. Defendant denies the allegations set forth in paragraph 81.

82. Defendant denies the allegations set forth in paragraph 82.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to follow all administrative prerequisites to filing the lawsuit.

THIRD AFFIRMATIVE DEFENSE

All actions taken with respect to Plaintiff's employment were done for legitimate business reasons.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate damages, her entitlement to which is expressly denied.

FIFTH AFFIRMATIVE DEFENSE

To the extent any decisions concerning Plaintiff's employment were based in part upon

unlawful considerations, which Defendant expressly denies, the same decisions would have been made based upon legitimate business reasons.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the doctrine of after acquired evidence.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the applicable statute(s) of limitations.

WHEREFORE, Defendant prays for judgment as follows: That Plaintiff takes nothing by her Complaint, and that the Complaint be dismissed with prejudice; that Defendant is awarded costs and expenses in the manner and to the extent permitted by law; and for such other and further relief as the Court may allow.

ROGERS TOWERS, P.A.

By: s/René M. Fix

Lori S. Patterson
Florida Bar No. 0111023
René M. Fix
Florida Bar No. 189545
1301 Riverplace Boulevard, Suite 1500
Jacksonville, Florida 32207
(904) 346-3911 (telephone)
(904) 396-0663 (facsimile)
lspatterson@rtlaw.com (email)
rfix@rtlaw.com (email)

ATTORNEYS FOR DEFENDANT, PHYAMERICA GOVERNMENT SERVICES, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing *Defendant PhyAmerica Government Services, Inc. Answer to Plaintiff Louise Moilere's Complaint* has been filed electronically with the Court via CM/ECF with a copy forwarded automatically by email to Anthony M. Georges-Pierre, Esq., Remer & Georges-Pierre, PLLC, 11900 Biscayne Boulevard, Suite 288, North Miami, Florida, 33181, this 29th day of November, 2010.

s/René M. Fix
Attorney

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.,

Defendant.
_____/

SCHEDULING ORDER

THIS COURT issues this order in accordance with S.D. Fla. L. R. 16.1. The parties shall comply with the following deadlines.

Conference and selection of a mediator to be completed no later than:	**December 16, 2010**
Deadline to join additional parties or to amend pleadings:	**December 22, 2010**
Deadline to complete all discovery:	**March 8, 2011**
Deadline for the filing of all motions for summary judgment:	**March 15, 2011**
Deadline for the filing of pretrial motions, including motions *in limine* and *Daubert* motions:	**March 31, 2011**
Mediation to be completed no later than:	**March 31, 2011**
Plaintiff's witness and exhibit lists:	**May 4, 2011**
Defendant's witness and exhibit lists:	**May 6, 2011**
Pretrial stipulations to be filed by:	**May 10, 2011**
Calendar Call at 2:00 P.M. on:	**May 17, 2011**
Trial set for the two-week period commencing:	**May 23, 2011**

To the extent that the parties request modification of any date in this Court's Scheduling Order, the parties shall file either a *Motion to Continue Trial* or a *Motion to Continue Pretrial Deadlines*.

DONE AND ORDERED in Chambers at Miami, Florida, this 2 day of December, 2010.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.,

Defendant.
_____/

ORDER SETTING TRIAL

Pursuant to *Federal Rules of Civil Procedure* 40, this action is at issue. It is therefore

ADJUDGED that:

(1) TRIAL DATE - This case is set for trial during the two-week period commencing **May 23, 2011**, in Miami, Florida

(2) CALENDAR CALL - Counsel must appear at Calendar Call which shall take place before the undersigned at the United States Courthouse, Wilkie D. Ferguson Building, Courtroom 13-3, 400 North Miami Avenue, Miami, Florida 33128, on **Tuesday, May 17, 2011, at 2:00 P.M.** The parties need not appear at Calendar Call. At Calendar Call counsel may bring all matters relating to the scheduled trial date to the attention of the Court. Counsel also shall be prepared to address all motions pending before the Court.

(3) PRETRIAL CONFERENCE - The Pretrial Conference allowed for under *Federal Rules of Civil Procedure* 16(a) and required by S.D. Fla. L.R. 16.1.C., shall take place immediately following Calendar Call only if requested by the parties in advance. If the parties do not request a

pretrial conference in advance of Calendar Call then no pretrial conference will be held.

(4) **PLAINTIFF'S WITNESS AND EXHIBIT LISTS** - Plaintiff shall electronically upload onto the case docket a copy of Plaintiff's Witness List and a copy of Plaintiff's Exhibit List no later than **Wednesday, May 4, 2011, at 5:00 P.M.**

(a) **PLAINTIFF'S WITNESS LIST** - Plaintiff's Witness List shall include all the witnesses, both lay and expert, that Plaintiff intends to call at trial. Plaintiff's Witness List shall briefly describe the nature of each witness's testimony and whether such witness will be testifying live or by deposition. Witnesses omitted from the list will not be allowed at trial.

(b) **PLAINTIFF'S EXHIBIT LIST** - Plaintiff's Exhibit List shall include all the exhibits that Plaintiff intends to use at trial. Plaintiff's Exhibit List shall in consecutively numbered paragraphs adequately describe the nature of each document listed. The actual exhibits shall be pre-marked with corresponding numbers (*e.g.* Plaintiff's Exhibit #1, P.E. #2, P.E. #3...) which numbers they will retain through the end of trial. The exhibit list shall refer to specific items and shall not include blanket statements such as *all exhibits produced during depositions* or *Plaintiff reserves the use of any other relevant evidence*. Exhibits omitted from the list will not be allowed at trial.

(5) **DEFENDANT'S WITNESS AND EXHIBIT LISTS** - Defendant shall electronically upload onto the case docket a copy of Defendant's Witness List and a copy of Defendant's Exhibit List no later than **Friday, May 6, 2011, at 5:00 P.M.**

(a) **DEFENDANT'S WITNESS LIST** - Defendant's Witness List shall include only those additional lay and expert witnesses not included on Plaintiff's Witness

List. Witnesses listed by Plaintiff will be available for both parties and should not be re-listed on Defendant's Witness List. Defendant's Witness List shall briefly describe the nature of each additional witness's testimony and whether such witnesses will be testifying live or by deposition. Witnesses omitted from Defendant's Witness List and not listed on Plaintiff's Witness List will not be allowed at trial.

(b) DEFENDANT'S EXHIBIT LIST - Defendant's Exhibit List shall include only those additional exhibits that Defendant wishes to introduce at trial which are not on Plaintiff's Exhibit List. Defendant's Exhibit List shall in consecutively numbered paragraphs adequately describe the nature of each document listed. The actual exhibits shall be pre-marked with corresponding numbers (*e.g.* Defendant's Exhibit #1, D.E. #2, D.E. #3...) which numbers they will retain through the end of trial. The exhibit list shall refer to specific items and shall not include blanket statements such as *all exhibits produced during depositions* or *Plaintiff reserves the use of any other relevant evidence*. Exhibits omitted from Defendant's Exhibit List and not listed on Plaintiff's Exhibit List will not be allowed at trial.

(6) PRETRIAL STIPULATION - Pursuant to S.D. Fla. L.R. 16.1.E., the parties shall file a Pretrial Stipulation no later than **Tuesday, May 10, 2011**. The Pretrial Stipulation shall conform to the requirements of S.D. Fla. L.R. 16.1.E. The parties shall attach to the Pretrial Stipulation copies of the witness and exhibit lists along with any objections as allowed for under S.D. Fla. L.R. 16.1.E.9. A pending motion for continuance shall not stay the requirement for the filing of a Joint Pretrial Stipulation.

(7) CONTINUANCE / SETTLEMENT - A motion for continuance or a stipulation of settlement must be in writing. S.D. Fla. L.R. 7.1.4. Unless the Court grants the motion in writing,

counsel must appear at the Calendar Call.

(8) MOTIONS - When submitting motions, the parties shall submit a proposed order only for those motions listed in S.D. Fla. L.R. 7.1.A.1.

(9) DEPOSITIONS - Depositions are limited to seven hours during one day absent court order or agreement of the parties and any affected non-party witnesses. S.D. Fla. L.R. 26.1.K.

(10) SUMMARY JUDGMENT - The practice of filing multiple motions for partial summary judgment which are collectively intended to dispose of the case (as opposed to one comprehensive motion for summary judgment) in order to evade memorandum page limitations is specifically prohibited. *See Administrative Order 97-06* (S.D. Fla. January 31, 1997) (amending Local Rule 7.1.C.2.).

DONE AND ORDERED in Chambers at Miami, Florida, this 24 day of December, 2010.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.,

Defendant.
_____/

PRETRIAL ORDER SETTING CONFERENCE

THIS CAUSE came before the Court upon a *sua sponte* examination of the record. It is

ADJUDGED that S.D. Fla. L.R. 16.1 shall apply to this case and the parties shall hold a conference no later than **December 16, 2010**. The conference may be held via telephone. At the conference, the parties shall comply with the following agenda that the Court adopts from S.D. Fla. L.R. 16.1.

(1) Documents (S.D. Fla. L.R. 16.1.B.1 and 3) - The parties shall determine the procedure for exchanging a copy of or a description by category and location of all documents and other evidence that is reasonably available and that a party expects to offer or may offer if the need arises. *Fed. R. Civ. P.* 26(a)(1)(B).

(a) Documents include computations of the nature and extent of any category of damages claimed by the disclosing party unless the computations are privileged or otherwise protected from disclosure. *Fed. R. Civ. P.* 26(a)(1)(C).

(b) Documents include insurance agreements which may be at issue with the

satisfaction of the judgment. *Fed. R. Civ. P.* 26(a)(1)(D).

(2) List of Witnesses (S.D. Fla. L.R. 16.1.B.4) - The parties shall exchange the name, address and telephone number of each individual known to have knowledge of the facts supporting the material allegations of the pleading filed by the party. *Fed. R. Civ. P.* 26(a)(1)(A). The parties have a continuing obligation to disclose this information.

(3) Settlement Discussions (S.D. Fla. L.R. 16.1.B.2, 5, 6 and 7) - The parties shall discuss the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case.

To the extent that the parties request modification of the Court's Scheduling Order, the parties shall also file either a *Motion to Continue Trial* or a *Motion to Continue Pretrial Deadlines*.

Failure to comply with this Order or to exchange the information listed above may result in sanctions and / or the exclusion of documents or witnesses at the time of trial. S.D. Fla. L.R. 16.1.B.1.

DONE AND ORDERED in Chambers at Miami, Florida, this 2 day of December, 2010.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.,

Defendant.
_____/

ORDER OF REFERRAL TO MEDIATION

Trial having been set in this matter for **May 23, 2011** pursuant to *Federal Rule of Civil Procedure* 16 and S.D. Fla. L.R. 16.2, it is

ADJUDGED as follows:

(1) **MEDIATION** - All parties must participate in mediation. The parties shall complete mediation no later than **March 31, 2011**.

(2) **SELECTION OF MEDIATOR** - Plaintiff's counsel, or another attorney agreed upon by all counsel of record and any unrepresented parties, shall be the "lead counsel" and responsible for scheduling the mediation conference. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, maintained in the office of the Clerk of this Court, but may select any other mediator. The parties shall agree upon a mediator no later than **December 16, 2010**. If there is no agreement, lead counsel shall promptly notify the Clerk in writing and the Clerk shall designate a mediator from the List of Certified Mediators, which designation shall be made on a blind rotation basis.

(3) ORDER SCHEDULING MEDIATION - A place, date, and time for mediation convenient to the mediator, counsel of record, and unrepresented parties shall be established. Lead counsel shall complete the form order attached and submit it to the Court. After the Court enters the completed form order, the mediator may, with consent of the parties, reschedule mediation at the mediator's discretion without further order of the Court.

(4) ATTENDANCE - The appearance of counsel and each party or representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. If an insurer is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

(5) CONFIDENTIALITY - All discussions, representations and statements made at the mediation conference shall be confidential and privileged.

(6) MEDIATOR SUMMARY - At least **ten** days prior to the mediation date, all parties shall present to the mediator a brief written summary of the case identifying issues to be resolved. Copies of these summaries shall be served on all other parties.

(7) NON-COMPLIANCE - The Court may impose sanctions against parties and / or counsel who do not comply with the attendance or settlement authority requirements or who otherwise violate the terms of this order. The mediator shall report non-attendance and may recommend imposition of sanctions by the Court for non-attendance.

(8) MEDIATOR COMPENSATION - The mediator shall be compensated in accordance with the standing order of the Court entered pursuant to S.D. Fla. L.R. 16.2.B.6, or on such basis as may be agreed to in writing by the parties and mediator selected by the parties. The parties shall share equally the cost of mediation unless otherwise ordered by the Court. All payments shall be remitted to the mediator within thirty days of the date of the bill. Notice to the mediator of

cancellation or settlement prior to the scheduled mediation conference must be given at least two full business days in advance. Failure to do so will result in imposition of a fee for one hour.

(9) SETTLEMENT - If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with S.D. Fla. L.R. 16.2.F, by the filing of a notice of settlement signed by counsel of record within **ten** days of the mediation conference. Thereafter the parties shall submit an appropriate pleading concluding the case.

(10) MEDIATION REPORT - Within **five** days following the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present. The report shall also indicate whether the case settled (in full or in part), was continued with the consent of the parties or whether the mediator declared an impasse.

(11) SANCTIONS - <u>If mediation is not conducted, the case may be stricken from the trial calendar, and other sanctions including dismissal or default may be imposed.</u>

DONE AND ORDERED in Chambers at Miami, Florida, this 2 day of December, 2010.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiff,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.,

Defendant.
_____/

ORDER SCHEDULING MEDIATION

The mediation conference in this matter shall be held with _____ on _____, 200__, at _____AM / PM at _____ _____.

DONE AND ORDERED in Chambers at Miami, Florida, this ___ day of _____, 200__.

_____
FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division
CASE NO: 10-23949-CIV-MORENO

LOUISE MOILERE,

Plaintiffs,

vs.

PHYAMERICAN GOVERNMENT SERVICES, INC.
Defendant.
_____/

CERTIFICATE OF INTERESTED PERSONS

Plaintiff, through undersigned counsel, hereby files this Certificate of Interested Persons and states the following interested persons, associated persons, firm, partnership have a financial interest in the outcome of this case:

1. Louise Moilere
2. Remer & Georges-Pierre, PLLC
3. Jason S. Remer, Esq.
4. Anthony M. Georges-Pierre, Esq.

Respectfully Submitted,

REMER & GEORGES-PIERRE, PLLC

BISCAYNE CENTRE
11900 Biscayne Blvd., Suite 288
North Miami, Fl 33181
Telephone (305)416-5000
Facsimile (305)416-5005

Anthony M. Georges-Pierre, Esq.
Florida Bar No.: 0533637

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: _____
Anthony M. Georges-Pierre, Esq.

SERVICE LIST

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