

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES SPILKO,

Plaintiff,

Case No.
Hon.

v

COMERICA MANAGEMENT
CO., INC., a Michigan Corporation,
COMERICA INCORPORATED,
a Delaware Corporation,

Defendant.

James K. Fett (P39461)
Fett & Fields, P.C.
407 N. Main St., 2nd Floor
Ann Arbor, MI 48104
734-954-0100
Fax: 734-954-0762
jim@fettlaw.com
Attorneys for Plaintiff

PLAINTIFF'S STATEMENT OF THE CASE

***DEI ABUSE – RACE AND GENDER QUOTAS TO BALANCE WORKFORCE
WITH MARKET DEMOGRAPHICS CAUSE PLAINTIFF TO BE DENIED
OVER 30 PROMOTIONS IN FAVOR OF LESS QUALIFIED CANDIDATES***

SUMMARY

Type of Case: Race, Sex, and Age Discrimination in Promotions
Complete with Quotas and Institutional Preferences
Management Bonuses Tied to Illegal Quotas
Retaliation

Counts: Race Discrimination, 42 U.S.C. § 1981
Race, Sex, Age Discrimination, Retaliation, Elliott-Larsen Civil Rights Act
Race, Sex, Age Discrimination, Retaliation, Title VII of the Civil Rights Act of 1964 and Age Discrimination in Employment Act

Key Facts: Irrefutable evidence of illegal race, sex, and age balancing.
Direct evidence of illegal quotas.
Direct evidence of management compensation tied to illegal quotas.
Direct evidence of management directives to give preferences.
Outstanding Plaintiff performance rewarded by over 30 promotional denials in favor of demonstrably less qualified candidates outside of his protected class.

Damages: Economic: \$5,464,046
Noneconomic: \$2,732,022
Punitive: \$25,000,000

Total Exposure: \$33,196,068

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I. OVERVIEW

Defendant implements perhaps one of the most extensive, illegal Diversity, Equity, and Inclusion (“DEI”) programs in the country. Defendant’s top management sets diversity quotas and then ensures they are met by Soviet-style control of hiring, promotion, and termination.

Plaintiff James Spilko (“Plaintiff”) is just one of many victims of Defendants’ illegal DEI practices. He is a fifty-six (56) year-old White male. He was hired by Defendant Comerica Incorporated, a.k.a., Comerica Bank, in October 2012 as a Senior Portfolio Manager. Throughout his tenure, Plaintiff has been an exemplary employee, consistently receiving high performance ratings and ranking in the top 5-20% annually. He has also been a staunch supporter of Defendant’s DEI programs. Nevertheless, as a result of Defendants’ illegal DEI practices, he has been *denied over 30 promotions since 2018* in favor of less qualified, more “diverse” candidates.

II. RACE, GENDER, AGE BALANCING OF WORKFORCE

Comerica’s goal is to balance the composition of its workforce so that it “reflects the demographics” of their markets. See e.g. **Exhibit A**, *Comerica DEI Reports*, Bates No. 000081, 000109; **Exhibit G**, *Bennett Interviews*, Bates No. 324. Its balancing efforts focus on “women, minority populations, individuals with disabilities, veterans and colleagues of varying ages.” See e.g. **Exhibit A**, Bates No. 000081, 000109.

Gender and racial balancing are illegal. “[O]utright racial balancing’ is ‘patently unconstitutional.’” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 214, 223 (2023) (quoting *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 311 (2013)). “ [I]t is permissible to remedy *discrimination*. It is not permissible to remedy *disparity*” *Middleton v City of Flint*, 92 F3d 396, 406 (6th Cir 1996) (City sought to balance police workforce with Flint population demographics).

The illegal balancing occurs not only at the macro-level, but also at the micro-level. Comerica carefully monitors the race, gender and age composition of each line of business (department), as well as each level of employment, e.g. Senior Officials, Middle Management, etc. **Exhibit G**, Bates No. 235. Comerica further undertakes radical, discriminatory measures, that permeate all its employment decisions, from hiring, promotion, and termination, to maintain or obtain these de facto quotas.

Two specific areas in which Comerica has identified “diversity gaps” are at the Senior Officer and Vice President levels, and in its Technology Line. See e.g., **Exhibit A**, Bates No. 000061 (Priority of “advancing gender and racial equity through increased representation at the Senior Officer and Vice President levels.”); *Id.* at Bates No. 000066 (Specifically monitoring the Technology line in reports). Comerica has deployed its full arsenal of illegal, discriminatory practices to achieve its de facto quotas in these areas.

The results prove it. For instance, despite a steady decline in employees, bottoming out in 2021, Comerica has had a remarkably steady increase in women and ethnically diverse (i.e. non-White male) Officials and Managers since 2018:

Year	2018	2019	2020	2021	2022	2023
Female - Officials and Managers	697	684	688	681	695	727
Ethically Diverse - Officials and Managers	352	356	375	384	387	427

See **Exhibit B**, *Key Metrics*, Bates Nos. 000125-150.

These types of consistent numbers are only achievable through discriminatory policies aimed at illegal race, gender, and age balancing.

III. IMPLEMENTATION OF QUOTAS AT THE MACRO LEVEL

Comerica’s “DEI efforts start at the highest levels of the company.” See e.g., **Exhibit A**, Bates No. 000093. “Comerica’s Chief Diversity, Equity and Inclusion Officer, who reports to the Chief Administrative Officer and the Chairman, President and CEO, manages all aspects of DEI as they relate to current and potential Comerica colleagues.” *Id.* “This oversight includes the design and execution of internal and external Comerica DEI programs, initiatives and funding.”

Comerica’s “Executive Diversity Committee (EDC), chaired by [the] Chairman, President and CEO and composed of [the] executive leadership team and Chief Diversity, Equity and Inclusion Officer, sets the strategy and addresses key issues and topics relating to DEI.” *Id.* “EDC members, as well as all senior officers, are required to include diversity and inclusion as part of their annual performance

management plans, as measured through an Annual Diversity Scorecard.” *Id.* “EDC members also include diversity objectives throughout their lines of business.” *Id.*

Workforce Diversity			
Produce Equitable Gender and Racial Interview Slates (Senior leader and VP positions)	Provide Mentorship and Sponsorship (All women and minority on succession plans)	Increase Equity in Succession Plans (All women and minority on succession plans)	Increase Equity in Gender and Racial Representation (Women and Minorities)

Exhibit A, Bates No. 000095.

“The EDC addresses important strategic issues relating to diversity and inclusion, including the attraction, retention and development of diverse colleagues.” *Id.* at Bates No. 000093. “The EDC provides guidance in tandem with the Chief Diversity, Equity and Inclusion Officer, who leads the Diversity and Inclusion team and implements the diversity and inclusion strategy.” *Id.* “The EDC sets annual and long-term internal diversity goals.” *Id.*

In reality, the goals are mandates to discriminate based on race, gender, and age in employment decisions. “[E]ach Senior Officer in the company (including executive officers) is held accountable toward contributions to achieving the goals on an annual basis as it impacts their performance rating and thereby compensation.” *Id.* at Bates No. 000095. As a result of these quotas, “100% of business units met their

DEI performance goals” for many consecutive years running. See *Id.* at Bates Nos. 000080, 000094, 000107.

IV. IMPLEMENTATION OF QUOTAS AT THE BUSINESS UNIT LEVEL

Once companywide DEI quotas are set by the EDC, each business line is charged with creating its own micro-level quotas. See e.g. **Exhibit A**, Bates No. 000093. (“EDC members also include diversity objectives throughout their lines of business.”). Each business line then works with Human Resources to ensure these quotas are met. This includes rigorous monitoring of progress, Human Resource control of the hiring and promotional process to ensure that management (1) hires the preferred demographic, (2) prefers women and non-White males in development and hiring and (3) when all else fails, manipulates performance ratings or job titles/qualifications to ensure the desired result.

A. Monitoring of DEI Mandate Progress

Senior Officials are required to monitor progress towards the DEI quotas. This is done through a software platform called “Comerica Insights for Managers” “Headcount Demographics” reports. See e.g. **Exhibit C**, *Comerica Documents*, Bates No. 000151. The software produces monthly reports and details race, gender, and age composition of Comerica’s workforce, both companywide and for direct reports.

B. Human Resource Control of Hiring and Promotional Process

Comerica also ensures quotas are met by human resource control of which candidates receive interviews for open positions. Each candidate is internally tracked using a “Talent Card.” The talent card tracks race, gender, and age. Human Resources uses these metrics to ensure that the candidates forwarded to the manager will result in the desired demographic being hired. If the desired demographic has not applied for the position, Comerica will solicit “diverse” candidates and ensure they receive the position.

If the Human Resource Department chooses an application to forward to the hiring manager, the applicant receives an interview. If the Human Resource Department chooses not to forward an application, the applicant is rejected without an interview.

C. Management Incentivized to Discriminate

Comerica ties bonuses and advancement to its management’s achievement of “diversity” quotas. That is, management “is held accountable toward contributions to achieving the goals on an annual basis as it impacts their performance rating and thereby compensation.” See e.g. **Exhibit A**, Bates No. 000095. Comerica’s Performance Management Plan (PMP) incorporates five different ratings: Distinguished, which goes to the top 10%; Outstanding, which goes to the top 35%; Successful, which goes to the top 50%; Inconsistent, which less than 5% of employees

receive; and, Unsatisfactory, which less than 5% of employees receive. See **Exhibit C**, Bates No. 000152.

Each manager level employee is then evaluated on different metrics, which are referred to as “PMP Categories.” Each business line’s number one PMP Category is titled “Drive for Diversity & Inclusion.” See e.g. *Id.* at Bates No. 000153. The PMP further breaks down specific goals for each PMP category, including diversity and inclusion. *Id.*

Specific goals include “[a]ccomplishing outstanding or better on senior officer diversity scorecard.” *Id.* Comerica further instructs managers that “Outstanding” is “successfully hiring [the desired demographic] for your open positions.” *Id.* at Bates No. 000154.

Meeting the diversity and inclusion goals in the PMP is weighted as 10% of a manager’s rating. *Id.* at Bates No. 000153. Thus, if management fails to hire or promote the desired demographic, the manager’s rating suffers, impacting compensation and limiting advancement opportunities.

In addition, management is required to “provide mentorship and sponsorships” to minority candidates, which also requires “all women and minority on succession plans.” See e.g. **Exhibit A**, Bates No. 000095.

D. Discrimination in Development Opportunities

Comerica also discriminates based on race, gender, and age in offering career advancement opportunities. For instance, Comerica offers a Leadership Development Program. Participants are selected by management, and participation in these programs can significantly increase an employee's prospects of promotion. In 2023, participants were 44% "ethnically diverse" and 72% women. See e.g. **Exhibit A**, Bates No. 000110.

E. Discrimination in Hiring

Comerica's hiring statistics further demonstrate it engages in illegal discrimination. For instance, in 2020, 61% of new hires were women and 51% were minority. *Id.* at 000066. Further, 89% of technology interns were "diverse" and 76% of bank interns were diverse. *Id.* These numbers would be impossible if not for discriminatory practices. That is because the labor pool for banking, particularly in the technology and financial positions is overwhelmingly "non-diverse" (i.e., White males.)

V. RADICAL MEASURES IN THE TECHNOLOGY LINE

Nowhere has Comerica's discriminatory practices been more profound than its Technology line. Comerica sets and maintains a quota of 50% or more "diverse" Senior Officers, placing a specific emphasis on gender equity, (i.e. preferences for females). See e.g., **Exhibit C**, Bates No. 000155; **Exhibit G**, Bates No. 228.

To achieve this quota, each manager's PMP includes a requirement to accomplish "outstanding or better on senior officer diversity scorecard." Comerica then mandates the hiring of females by instructing that "Outstanding" is "successfully hiring women for your open positions." **Exhibit C**, Bates Nos. 000153-54.

Predictably, managers often resort to altering job descriptions and/or performance ratings so that the desired demographic can be placed in the position, See e.g. *Id.* at Bates Nos. 000157-160, 162-183, and their bonuses enhanced.

The blatant bald-faced discrimination has yielded the desired results. For instance, in just a few years, Comerica's Enterprise Change Delivery team (formerly the "Program Management Office") went from majority male to being comprised of fourteen females and only two males. See *Id.* at Bates No. 000156.

VI. PLAINTIFF SUBJECTED TO INSTITUTIONAL POLICY OF DISCRIMINATION

Comerica's institutional discrimination against White males (DEI abuse) has impacted Plaintiff, and those similarly situated. Despite over thirteen years of ranking in the top 5-20% and receiving sterling performance reviews, James is now in a lower position than when he began his employment 13 years ago.

He complied with Comerica's DEI mandates and has always met his diversity goals yet has been denied approximately thirty (30) promotions since 2018. See *Id.*

at Bates No. 000161. Nearly all these positions were given to women or ethnically diverse (i.e. non-White male) or substantially younger employees.

In 2019, Comerica demoted James from a grade 37 to a grade 36 position so that it could create a grade 37 position for a far less qualified female, Terri Field.

Despite the demotion, James continued to perform the same duties and responsibilities. However, Comerica removed his team of Project Managers, claiming that this function was no longer needed. It did this to create three new positions and fill them with females. The Project Managers that were hired were Denice Tackett, Dhruvani Paul, and Maria Cook. The new grade capped Plaintiff's salary and rendered him ineligible for raises, a fact never conveyed to James.

Plaintiff's peer manager at the time, Mike Montrose, Senior Vice President of Operations, recognized the demotion as unjust and recommended that James file a discrimination complaint. With Montrose's support, Plaintiff opposed his demotion as discriminatory to Human Resource Representatives Laura Kimball and Sarah Pew. However, Comerica failed to take any action.

Instead, the Human Resource Department rejected Plaintiff's applications without interview approximately nine times over the next approximately five years. See **Exhibit C**, Bates No. 000161.

During this period, the Chief Information Officer was Sangy Vatsa. At a leadership meeting, Chief Technology Officer Baiju Panicker stated, "look around

this room of 15-20 leaders, and we only have 1 woman leader.” Sangy then directed the department to “hire more women leaders,” further stating, “this will be a goal in your performance rating.” As a result, the vast majority of the positions Plaintiff applied for went to less qualified female or “diverse” employees.

On September 25, 2020, James applied for the Enterprise Technology and Operations Initiatives Manager position. He was rejected without an interview. The position was awarded to a less qualified female, Karen Schmeckle, after Comerica removed job requirements for the position so that she would qualify.

On June 15, 2021, Plaintiff applied for the Cyber Program Strategy Governance & Management SVP position. He was rejected after a token interview. The position was awarded to a less qualified, “diverse” female, Archana Siriam, whose credentials paled in comparison to Plaintiff’s knowledge, skills, and experience.

On July 12, 2021, James applied to the Technology Shared Services Director position. He was rejected without an interview. The position was awarded to a less qualified female, Jodi Liscio.

On August 27, 2021, James was promoted back to his original position of Senior Manager Technology Project Portfolio after failing to obtain the Technology Shared Services Director position.

As a result of her promotion, Ms. Liscio became Plaintiff's supervisor. Ms. Liscio prioritized female hires and penalized male employees in performance rankings.

On January 30, 2023, Plaintiff applied for the positions of Divisional Finance Director and Director Financial Systems Solutions. He was rejected for both positions without an interview.

Ms. Liscio was eventually terminated after HR found she was fraudulently giving male subordinates lower annual ratings.

Following Ms. Liscio's departure, Plaintiff's new supervisor, John Wei, downgraded his rating from "Distinguished" to "Outstanding" by inserting false feedback into James' review, thus reducing his score by 0.10. This was despite Ms. Liscio informing James prior to her departure that he had been rated as distinguished for the third consecutive year. See **Exhibit C**, Bates No. 000179.

Plaintiff contested the rating and reported to HR that the downgrade was motivated by discriminatory animus. HR removed the false feedback but did not restore the original rating and took no action on his discrimination complaint.

In February of 2024, Plaintiff applied for four positions: Director of Platform Modernization; Payments Delivery Shared Services Director; Director HR Risk; and Business Information Office Corporate Function. The Business Information Office Corporate Function and Director of Platform Modernization were cancelled. He was

rejected for the Payments Delivery Shared Services Director and the Director HR Risk positions without interview. The Payments Delivery Shared Services Director position was awarded to a less qualified “diverse” female, Punam Sharma.

On October 25, 2024, James applied for another four positions: Director Enterprise Change Delivery; Director Enterprise Change Strategic Planning; Director Enterprise Change Management Program; Director Resolution Planning Office. He again was rejected for all four positions without interview.

The Director Enterprise Change Delivery position was awarded to a less qualified, substantially younger male, Jason Marton.

The Director Enterprise Change Management Program position was awarded to a less qualified female candidate, Jody Hanson. She was awarded the role without interview, after Comerica altered the job description. Comerica permitted her to work remotely from Florida. See **Exhibit C**, Bates Nos. 000157-160.

On December 20, 2024, Plaintiff applied for the Director of Program Management and again was rejected without an interview. The position was awarded to Neil Larkin, a less qualified, substantially younger male.

In 2025, Comerica began a reorganization. It rebranded position titles and required current employees to reapply for their positions. If employees were unable to secure a new position, they were offered a severance and effectively terminated. On February 1, 2025, James applied for five Senior Manager Change Delivery

positions, which were the rebranded positions nearly identical to the Senior Portfolio Manager position that he had been performing in exemplary fashion. He was rejected without an interview for four of the positions and received a token interview for the other. All five positions were awarded to females. Of the five positions, at least four were filled with less qualified females, Gelin Camp, Laura Boyer, Kristina Atwood, and Meghan Lintner. As to the other successful female candidates, Plaintiff is unaware of her qualifications.

On March 24, 2025, James applied for the position of Director Change Readiness Operations. Plaintiff was rejected without an interview. The position was awarded to Chris Hendrickson, a less qualified, substantially younger male.

At the urging of his Manager, James then applied for the Senior Manager Enterprise Change and Program Management position, which was a demotion. His interview was scheduled for June 2, 2025. On May 31, 2025, HR notified him by email that the role had been filled. Comerica nonetheless engaged Plaintiff in a sham interview on June 2, 2025. See **Exhibit C**, Bates Nos. 000184-186. The position was awarded to Arvin Sivakumaran Kashyap, a less qualified, substantially younger, non-white male.

Despite his exemplary qualifications, James was demoted to Change Delivery Lead, a grade 36 position. He is now ineligible for pay raises and his promotional opportunities are severely limited.

Comerica’s institutional policy of discriminating against older White males, has caused Plaintiff to be denied over thirty (30) promotions and the opportunity to apply for others. He has also been given fraudulent ratings, denied development opportunities, and forced to sit for a sham interview after the position was filled. Comerica’s institutional policy of discriminating against older White males over Plaintiff’s thirteen-year tenure has caused him significant financial loss and severe emotional distress.

VII. LIABILITY

“[R]acial discrimination [is] invidious in all contexts” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 214 (2023) (SFFA) (quoting *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614, 619 (1991)). Moreover, “‘outright racial balancing’ is ‘patently unconstitutional.’” *SFFA*, 600 U.S. at 223 (quoting *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 311 (2013)). No employer, not even Comerica, can discriminate to satisfy its “desire [for] ‘some specified percentage of a particular group merely because of its race [sex, or age].’” *SFFA*, 600 U.S. at 211 (quoting *Grutter v. Bollinger*, 539 U.S. 306, 329–30 (2003)); See also **Exhibit D**, *DEI Litigation*, Bates Nos. 000191-222.

“Goals,” or de facto quotas, in furtherance of this desire that are “tied to bonus compensation in such a way that it incentivizes impermissible racial [or sex] discrimination and disincentivizes refusal to engage in such discrimination” are

illegal. *Dill v. Int'l Bus. Machines Corp.*, No. 1:24-CV-852, 2025 WL 913744, at *3 (W.D. Mich. Mar. 26, 2025) (Slip Copy); *Frank v. Xerox Corp.*, 347 F.3d 130, 137 (5th Cir. 2003) (Employees evaluated on how well they complied with DEI objectives). This includes “goals” that require the “overall workforce, including its leadership, to reflect the communities serve[d],” *Duvall v. Novant Health, Inc.*, 95 F.4th 778, 788 (4th Cir. 2024).

Indeed, in *Duvall*, in addition to statistical evidence demonstrating racial balancing, a jury considered Defendant’s practices of “benchmarking its then-current D&I levels and developing and employing D&I metrics; committing to adding additional dimensions of diversity to the executive and senior leadership teams and incorporating a system wide decision making process that includes a diversity and inclusion lens, and evaluating the success of its efforts and identifying and closing any remaining diversity gaps.” *Id.* The jury returned an award of \$10 million for Plaintiff in punitive damages alone.

Here, the statistics irrefutably prove that Comerica engaged in illegal discrimination to achieve race, gender, and age balancing. See **Exhibit B**, Bates Nos. 000125-150; **Exhibit G**, Bates No. 234. Indeed, it has openly published that it engaged in the same widespread “DEI Initiative” as in *Duvall*. See **Exhibit A**, Bates Nos. 0001-124; **Exhibit G**, Bates Nos. 226-240.

However, unlike in *Duvall*, Plaintiff has direct evidence of discrimination. Comerica set a 50% quota for females for Senior Officials in the technology department. **Exhibit C**, Bates No. 000155. It then required managers to “successfully hire women.” *Id.* at Bates No. 000154. As a result, Plaintiff was denied nearly 30 promotions in favor of less qualified, female, minority, or substantially younger candidates. **Exhibit C**, Bates No. 000161. Under such circumstances, Comerica will not escape liability.

VIII. DAMAGES

Economic Damages

Plaintiff has been denied approximately 20 promotions that are within the statute of limitations. See *Id.* Twelve of these promotions were for Director level positions, which have a significantly higher salary and bonus structure than what Plaintiff presently earns. *Id.* While it is impossible to precisely calculate economic damages without knowing the successful candidates’ compensation, Plaintiff’s conservative initial estimate, considering salary, bonus, and stock options only, is approximately \$5.5 million. See **Exhibit E**, *Damage Calculation*, Bates No. 000224-25.

Non-Economic Damages

Comerica’s illegal DEI policies have caused Plaintiff significant emotional distress. His demeaning demotion to a position lower than his entry level position

13 years ago has only exacerbated this. Plaintiff anticipates a non-economic damage award of at least one-half the economic damages, or approximately \$2,700,000.

Punitive Damages

Punitive damages are available to Plaintiff pursuant to 42 U.S.C. § 1981 and Title VII. There is no cap on § 1981 punitive damages.

Juries have been punishing employers in reverse discrimination cases. See **Exhibit D**, Bates Nos. 000187-88 (\$10 million in punitive damages); Bates Nos. 000189-190 (\$25 million in punitive damages). This is not surprising as the public has long found racial and gender preferences abhorrent.

Consider the successful California and Michigan referendums to amend their state constitutions to prohibit racial and gender preferences in government employment, contracting and college admissions. 58% of the voters of those liberal states voted to outlaw preferences. California voters in 2020 voted overwhelmingly against a referendum to reverse the constitutional amendment barring racial and gender preferences.

The Trump administration has recognized the scope and pervasiveness of DEI abuse in all sectors of the economy and is actively rooting out these abuses.¹ Many

¹ Before she became Assistant Attorney General for Civil Rights, Harmeet Dhillon was the President of the Republican National Lawyers Association. As a member of that group, I have heard and read her thoughts on DEI. She will to be a valuable ally in the war on DEI abuse.

companies, including financial institutions, have responded to the Trump administration's initiative and have ceased their illegal DEI practices.² Many state governments are also proactive in this area, See **Exhibit D**, *Missouri v. IBM*, Bates Nos. 000191-222. All this is to say that juries take a dim view of institutional discrimination against White males in the name of "diversity."

Given the highly coordinated, systemic, and unremitting discriminatory actions against James and similarly situated older White males, a jury could easily award punitive damages far in excess \$25 million.

² See **Exhibit F**: April 11, 2025, Forbes article *IBM Reportedly Walks Back Diversity Policies, Citing Inherent Tensions: Here Are All The Companies Rolling Back DEI Programs*.

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