

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.)

I. (a) PLAINTIFFS

A.B, a minor, and B.C., his mother [NAMES REDACTED] c/o David Mildeberg, Esq., 123 S. Broad St., Ste. 1610, Phila., PA 19109

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brian R. Mildeberg/David S. Mildeberg, Mildeberg & Stalbaum, PC
123 S. Broad St., Ste. 1610, Phila., PA 19109 (215)545-4870

DEFENDANTS

THE VALLEY CLUB OF HUNTINGDON VALLEY PA
22 Tomlinson Road, PO Box 134, Hunt.Valley., PA 19006

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

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

Attorneys (If Known)

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

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC Section 1981

Brief description of cause:

Plaintiffs were denied swimming privileges as a result of their color, race and/or national origin.

VII. 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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE: 07/10/2009 SIGNATURE OF ATTORNEY OF RECORD

/s/ David S. Mildeberg/Brian R. Mildeberg, Esqs.

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: ALL PLAINTIFFS: C/O MILDENBERG & STALBAUM, P.C., 123 S. BROAD ST., STE. 1610, PHILA., PA 19109 [PLAINTIFFS RESIDE IN PHILADELPHIA COUNTY—THEIR ADDRESS IS REDACTED FOR PROTECTION OF THE IDENTITY OF A MINOR PLAINTIFF.]

Address of Defendant: 22 Tomlinson Road, PO BOX 134, Huntington Valley, PA 19006
Place of Accident, Incident or Transaction: 22 Tomlinson Road, PO BOX 134, Huntington Valley, PA 19006

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [] No [XXX]

Does this case involve multidistrict litigation possibilities? Yes [] No [XXX]
RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No []
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No []
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No []
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [] No []

CIVIL: (Place __ in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [XXX] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability — Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, BRIAN R MILDENBERG, ESQ., counsel of record do hereby certify:

- [X] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[X] Relief other than monetary damages is sought.

DATE: July 10, 2009 /s/ Brian R. Mildenberg, Esq. PA I.D.-84861
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: July 10, 2009 /s/ Brian R. Mildenberg, Esq. PA I.D.-84861
Attorney-at-Law Attorney I.D.#

**APPENDIX I
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CASE MANAGEMENT TRACK DESIGNATION FORM**

A.B. et al.,

v.

The Valley Club of Huntingdon Valley et al.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (XXX)**
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

Date: July 10, 2009

MILDENBERG AND STALBAUM, P.C.
By: /s/ Brian R. Mildenberg/David S. Mildenberg
BRIAN R. MILDENBERG, ESQUIRE
DAVID S. MILDENBERG, ESQUIRE
123 S. Broad Street, Suite 1610
Philadelphia, PA 19109
(215) 545-4870

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MILDENBERG AND STALBAUM, P.C.
By: BRIAN R. MILDENBERG, ESQUIRE
By: DAVID S. MILDENBERG, ESQUIRE
123 S. Broad Street, Suite 1610
Philadelphia, PA 19109
(215) 545-4870
Counsel for Plaintiff

A.B., a minor child,
by and through his natural mother
and next friend C.D., on
his own behalf and on behalf of any
and all similarly situated persons;

and,

C.D, on her own
behalf as natural parent and on behalf
of any and all similarly situated persons,

Plaintiffs,

v.

THE VALLEY CLUB OF
HUNTINGTON VALLEY, PA
22 Tomlinson Road
PO BOX 134
Huntington Valley, PA 19006;

and,

JOHN/JANE DOES # 1-100,

Defendants.

CIVIL ACTION No.: _____

COMPLAINT

CLASS ACTION
pursuant to 42. U.S.C. § 1981 *et seq.*:
Race Based Discrimination in the
Making and Enforcement of Contracts

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

COME NOW Plaintiffs, by and through undersigned counsel, MILDENBERG AND STALBAUM, P.C., complaining of Defendants, and respectfully aver as follows:

I. INTRODUCTORY STATEMENT

1. This legal action is brought on behalf of approximately sixty (60) children of African-American, Hispanic, and/or other minority ethnicities who have been denied swimming privileges at the swim club operated by Defendant, The Valley Club, because of nothing more than the complexion of their skin.

2. This legal action seeks class action status and seeks, on behalf of the children victims of The Valley Club's invidious acts of racial discrimination, legal and equitable relief, including:

- a. A declaratory judgment declaring that Defendants have illegally discriminated against Plaintiffs because of the color of their skin;
- b. An appropriate remedial order, granting injunctive relief, subject to enforcement by Federal Marshalls, if necessary, directing, requiring and ordering VC to:
 - i. Immediately open their pool to the children;
 - ii. Cease and desist all acts of proscribed racial discrimination as required pursuant to 42. U.S.C. Section 1981 *et seq.*;
 - iii. To take such other remedial action as is needed to enforce compliance with all relevant standards of non-discrimination on the basis of race, color or nationality as actionable under Section 1981.

- c. Payment of compensatory and punitive damages to the Children in an amount to be determined at trial, together with an award of such ancillary relief as is available in an action brought pursuant to 42 U.S.C. Section 1981.

II. PARTIES

A. PLAINTIFFS

3. The above paragraphs are incorporated herein by reference.
4. Plaintiff, A.B., is a minor child residing with his natural mother and next friend, C.D., in the City of Philadelphia. Plaintiff brings this action by and through his said natural mother and next friend, on his own behalf, and on behalf of all similarly situated individuals.
5. Plaintiff, C.D., is the natural mother and next friend of her minor child A.B., and resides with said child in the City of Philadelphia. Plaintiff brings this action on her own behalf as natural parent of A.B. and on behalf of all similarly situated individuals.
6. The identities of Plaintiffs are redacted in the legal papers of this action pursuant to local rules requiring such redaction to protect the identity of minors.

B. DEFENDANTS

7. The above paragraphs are incorporated herein by reference.
8. Defendant, The Valley Club of Huntingdon Valley, PA (the "VC"), is, upon information and belief, a swim club and non-profit corporation located in Huntingdon Valley, PA, duly organized and operating by virtue of and pursuant to the laws of the Commonwealth of Pennsylvania.
9. Defendants, John/Jane Does #1-100, are individuals and or entities unknown to Plaintiff at this time, who are or may be responsible for the herein alleged violations of law, and

whom the Plaintiffs reserve the right to join as Defendants, or to substitute the actual names thereof, upon discovery of same in the due course of investigation.

10. At all times relevant hereto, Defendants acted by and through their agents, officers, shareholders, employees, servants, directors, executives, and members, who were acting within the course and scope of their employment or agency or duties on behalf of the respective Defendants.

III. CLASS ACTION ALLEGATIONS

11. The above paragraphs are incorporated herein by reference.

12. This action is properly maintained as a class action pursuant to Rule 23 (a) & (b)(2) of the Federal Rules of Civil procedure.

13. The class is defined as:

All children who have been denied swimming privileges by Defendants because of the color of their skin, together with the parents of those children in their capacities as their legal guardians.

14. The Class of Plaintiffs is referred to herein as the "Plaintiff Class."

15. The Plaintiff Class is sufficiently numerous. Upon information and belief, the rights of at least approximately 60 children and approximately 120 parents at issue in the action.

16. The questions of law and fact raised by the claims of the named the Plaintiff Class are common to and typical of those raised by the claims of the putative class members. Each named Plaintiff of the Plaintiff Class and each putative class member thereof is of minority descent and has been denied swimming privileges by Defendants.

17. Common questions of fact and law for the members of the Plaintiff Class include, but are not limited to, the question of whether Defendants discriminated against the Plaintiffs the

basis of their race, nationality or color in violation of 42 U.S.C. § 1981 when Defendants denied the children swimming privileges at VC;

18. The legal violations alleged by the named Plaintiffs of the Plaintiff Class are typical of those raised by claims of each and every member of the putative class. The harms suffered by the named Plaintiffs are typical of harms suffered by all children and parents similarly situated.

19. The named Plaintiffs will fairly and adequately protect the interests of the Plaintiff Class. Plaintiff's proposed Class counsel, MILDENBERG AND STALBAUM, P.C., can adequately represent the rights of the Plaintiff Class.

20. Defendants have acted or refused to act on grounds generally applicable to the Plaintiff Class, making declaratory and injunctive relief with respect to the Plaintiff Class as a whole appropriate and necessary.

IV. JURISDICTION AND VENUE

21. The above paragraphs are incorporated herein by reference.

22. Jurisdiction over the matter is conferred upon the Court by 42 U.S.C. § 1981.

23. Venue lies in this judicial district because the events which give rise to the claim(s) occurred in this jurisdiction.

V. FACTS

24. The above paragraphs are incorporated herein by reference.

25. Plaintiffs are children who attend Creative Steps, a summer day camp located in Philadelphia County, PA.

26. Upon information and belief, prior to June 29, 2009, Creative Steps contracted with Defendant VC for sixty (60) children campers of the day camp to attend VC for swimming on Monday afternoons during the day camp season.

27. Upon information and belief, in consideration of such contract, prior to June 29, 2009, Creative Steps paid the sum of one thousand nine hundred and fifty dollars (\$1950.00) in order to secure the swimming privileges of the aforesaid sixty (60) children.

28. Upon information and belief, Plaintiffs, as the known, intended beneficiaries of the aforesaid contract between VC and Creative Steps, are third-party beneficiaries of the contract.

29. Upon information and belief, pursuant to the aforesaid contract, Plaintiffs were entitled to enjoy the benefits and privileges of the contract at all times relevant hereto.

30. Upon information and belief, those benefits and privileges included the use of the pool at VC.

31. Upon information and belief, on or about the afternoon of June 29, 2009, Plaintiff A.B., an African-American child, was lawfully on site at VC as one of the aforesaid approximately sixty (60) children entitled to use the pool at VC pursuant to the aforesaid contract with VC and Creative Steps Day Camp.

32. Upon information and belief, when the children from Creative Steps arrived at VC and began to use the facilities, as they were entitled to do under the aforesaid contract, several white members of the VC began to make disparaging racial remarks about the campers, who are African-American and Hispanic and/or of other minority ethnicity.

33. Upon information and belief, for instance, one of the children heard a white woman say: "What are all these black kids doing here? They might do something to my child."

34. Upon information and belief, other campers also heard racial comments and VC members making statements including: “What are those black kids doing here?”

35. Upon information and belief, one of the members advised the Director of Creative Steps that she would see to it that the group of non-white students would not return.

36. Upon information and belief, thereafter, some of the members of VC began pulling their children out of the pool and were standing around with their arms folded. Upon information and belief, only three members of VC left their children in the pool while the group of non-white students was swimming.

37. Shortly thereafter, upon information and belief, VC decided to cancel the contract with Creative Steps and issued a refund of the \$1950.00 paid by Creative Steps under the contract.

38. Thereafter, upon information and belief, in response to intense, national media attention and questions from the public, the President of VC stated publically that “There was a concern that a lot of kids would change the ‘complexion’... and the ‘atmosphere’ of the club.”

39. Plaintiffs believe and therefore aver that the contract with Creative Steps was terminated by VC because of the color of the children’s skin, and for no other legitimate, non-discriminatory reason. As a result of the contract termination, Plaintiffs, the intended beneficiaries of the contract, have lost their contractual rights to enjoy the benefits and privileges of using the pool at VC.

VI. CAUSE OF ACTION

COUNT I

**VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, AS AMENDED
*RACED-BASED DISCRIMINATION IN THE MAKING
AND ENFORCEMENT OF CONTRACTS IN VIOLATION OF 42 U.S.C. § 1981***

Plaintiffs, individually, and on behalf of all others similarly situated v. Defendants

40. The above paragraphs are hereby incorporated herein by reference.

41. Section 1981 of Title 42 of the United States Code, enacted as part of the Civil Rights Act of 1866, provides in pertinent part, as follows:

§ 1981. Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory **to make and enforce contracts.... as is enjoyed by white citizens**, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) “Make and enforce contracts” defined

For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the **enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship**.

(c) Protection against impairment

The **rights protected** by this section **are protected against impairment by nongovernmental discrimination** and impairment under color of State law.

Id. (emphasis added).

42. The Defendants, evidencing a settled intent to discriminate against Plaintiffs and the remaining children because of their race and color, terminated the VC contract with Creative Steps solely on the basis of the race and color of the Plaintiffs, to wit: African-American, Hispanic, and/or other minority, non-white ethnicity or national origin.

43. In terminating the aforesaid contract with Creative Steps in a racially discriminatory manner, and for a racially discriminatory purpose, the Defendants have intentionally deprived Plaintiffs of the enjoyment of benefits, privileges, terms, and conditions of the contractual relationship to which they were entitled pursuant to the VC contract allowing them to utilize the VC pool and facilities, all in violation of 42 U.S.C. § 1981.

44. The aforesaid conduct of Defendants was intentional and undertaken in reckless disregard for the federally protected civil rights of Plaintiffs.

45. As a result of the said violation of 42 U.S.C. § 1981, Plaintiffs and the Plaintiff Class have suffered racial discrimination, humiliation, embarrassment, and other harms, and are entitled to entry of judgment in their favor, and against Defendants, together with an award of declaratory and injunctive relief, damages, and ancillary relief as provided by 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- a. Assert jurisdiction over the instant action;
- b. Certify the instant action as a class action pursuant to Rule 23(a) & (b)(2) of the Federal Rules of Civil procedure;
- c. Enter a declaratory judgment declaring that Defendants have illegally discriminated against Plaintiffs because of the color of their skin;
- d. Enter an appropriate remedial order, granting injunctive relief, subject to enforcement by Federal Marshalls, if necessary, directing, requiring and ordering VC to:
 - i. Immediately open their pool to the Plaintiffs;
 - ii. Cease and desist all acts of proscribed racial discrimination as required pursuant to 42 U.S.C. § 1981 *et seq.*;
 - iii. Take such other remedial action as is needed to enforce compliance with all relevant standards of non-discrimination on the basis of race, color or nationality as actionable under § 1981.
- e. Award compensatory and punitive damages to the Children in an amount to be determined at trial, together with an award of such ancillary relief as is available in an action brought pursuant to 42 U.S.C. § 1981 by virtue of 42 U.S.C. § 1988 .
- f. Order such additional relief as is deemed just and proper, or that the interests of justice may require.

VII. JURY DEMAND

The Plaintiff Class hereby demands a jury trial as to all issues so triable herein.

Respectfully submitted,

MILDENBERG AND STALBAUM, P.C.

Date: July 10, 2009

**By: /s/ Brian R. Mildenberg/David S. Mildenberg
BRIAN R. MILDENBERG, ESQUIRE
DAVID S. MILDENBERG, ESQUIRE
123 S. Broad Street, Suite 1610
Philadelphia, PA 19109
(215) 545-4870
*Counsel for Plaintiff***