

1 UNIVERSITY LEGAL
2 ASSISTANCE
3 Larry A. Weiser, Attorney at Law
4 Jacob White, Legal Intern
5 Kristine Olmstead, Legal Intern
6 721 North Cincinnati Street
7 P.O. Box 3528
8 Spokane, Washington 99220
9 (Tel.) 509.323-5791
10 (Fax) 509.323-5805

Ryan P. Haygood, *pro hac vice*
Theodore M. Shaw
Director-Counsel
Norman J. Chachkin
Debo P. Adegbile
NAACP Legal Defense
& Educational Fund, Inc.
99 Hudson Street, Suite 1600
New York, NY 10013-2897
(Tel.) 212.965.2235
(Fax) 212.226.7592

11 *Attorneys for Plaintiffs*

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF WASHINGTON

14 MUHAMMAD SHABAZZ FARRAKHAN)
15 et al.,) NO. CV-96-076-RHW
16)
17 Plaintiffs,) PLAINTIFFS' RESPONSES
18) TO DEFENDANTS'
19) STATEMENT OF
20) MATERIAL FACTS
21) (LR 56.1(b))
22)
23)
24)
25)
26)
27)
28)
29)
30)
31)
32)
33)
34)
35)
36)
37)
38)
39)
40)
41)
42)
43)
44)
45)
46)
47)
48)
49)
50)
51)
52)
53)
54)
55)
56)
57)
58)
59)
60)
61)
62)
63)
64)
65)
66)
67)
68)
69)
70)
71)
72)
73)
74)
75)
76)
77)
78)
79)
80)
81)
82)
83)
84)
85)
86)
87)
88)
89)
90)
91)
92)
93)
94)
95)
96)
97)
98)
99)
100)

11 Plaintiffs, by and through their attorneys, LARRY J. WEISER and RYAN P.
12 HAYGOOD, attorneys for Plaintiffs, submit the following Responses to
13 Defendants' Statement of Material Facts in opposition to Defendants' Motion For
14 Summary Judgment, pursuant to E.D.Wash. LR 56.1(b):

15 PLAINTIFFS' RESPONSES TO
16 DEFENDANTS' STATEMENT OF
17 MATERIAL FACTS

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY

1 1. Plaintiffs do not object to Defendants' Statement of Material Facts
2 Nos. 1-8.

3 2. Plaintiffs object to Defendants' Statement of Material Fact No. 9
4 insofar as it characterizes Washington State law as having the "effect" of restoring
5 voting rights. In reality, statistics from the Washington Department of Corrections
6 (DOC) show that fewer than 70,000 Certificates of Discharge have been issued to
7 individuals released from prison since 1988, notwithstanding that, since that time,
8 nearly 300,000 individuals have been released from DOC supervision without a
9 Certificate of Discharge. See "Voting Rights Restoration Statistics For
10 Washington State," available at [http://www.aclu-
11 wa.org/library_files/Voting%20Rights%20Stats.pdf](http://www.aclu-wa.org/library_files/Voting%20Rights%20Stats.pdf).

12 3. Plaintiffs do not object to Defendants' Statement of Material Facts
13 No. 10.

14 4. Plaintiffs object to Defendants' Statement of Material Facts No. 11, to
15 the extent that Defendants suggest that they recently retained "the testimony of
16 Quintard Taylor." Defendants have not, since 2000, endeavored to strengthen their
17 case by updating the research and/or testimony of the previously retained experts,
18 or by retaining additional experts, with the exception of Hugh Spitzer, whose
19

20
21
22
23
24
25
**PLAINTIFFS' RESPONSES TO
DEFENDANTS' STATEMENT OF
MATERIAL FACTS**

P. 2 OF 6

FARRAKHANII\Summary Judgement\Docs prep for filing\Resp. to
Ds' Stmt of Mat. Facts.doc

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY

1 testimony is irrelevant, since it focuses solely on a question not at issue in this
2 case. *See* Plaintiffs' LR 56.1 Statement of Material Fact (filed July 31, 2000), No.
3 10. As a result, the findings of Plaintiffs' expert witnesses have not been refuted.
4

5 5. Plaintiffs do not object to Defendants' Statement of Material Facts
6 No. 12.

7 6. Plaintiffs object to Defendants' Statement of Material Facts No. 13
8 insofar as they characterize Dr. Quintard Taylor's expert report to conclude that
9 despite growth "in the African-American population, Washington did not have the
10 same kind of discrimination noted in other metropolitan areas such as Chicago,
11 Cleveland or New York City." In fact, according to Dr. Taylor,
12
13

14 [A]s the African American population grew in Seattle or Tacoma,
15 increasingly white attitudes were going to be discriminatory. Whites
16 were concerned about the loss of power. They were concerned about
17 the loss of access to neighborhoods. They were concerned about job
18 competition. They were concerned about *political rivalries*. And in
19 that regard whites in Seattle and Tacoma *were increasingly beginning*
20 *to sound and act like whites in Chicago and Cleveland and elsewhere*
21 . . . where there was a significant influx.

22 Taylor Dep., at 83-84. (emphasis added).

23 7. Plaintiffs object to Defendants' Statement of Material Facts No. 14 to
24 the extent that it suggests that the "incessant search for an area of this nation where
25

PLAINTIFFS' RESPONSES TO
DEFENDANTS' STATEMENT OF
MATERIAL FACTS

P. 3 OF 6

FARRAKHANII\Summary Judgement\Docs prep for filing\Resp. to
Ds' Stmt of Mat. Facts.doc

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY

1 Afro-Americans could live without social and political restrictions based on race”
2 ended when Blacks arrived in Washington State. Indeed, as Dr. Taylor makes
3 clear, “there were actual race riots . . . in some of the ship yards in Vancouver,
4 Washington and Seattle during World War II” and “[t]here was a tremendous
5 amount of racial tension in this city,” tension that ultimately had to be addressed by
6 the mayor of Seattle. Taylor Dep., at 84. This racial tension, according to Dr.
7 Taylor, was fueled by “white racism, that indeed whites had certain preconceived
8 notions about blacks and their role and their place in American society.” *Id.*

11 8. Plaintiffs object to Defendants’ Statement of Material Facts No. 15 to
12 the extent that it suggests that being subjected to “general racial restrictions” is
13 somehow favorable or less burdensome than being subjected to “comparable
14 attacks as those directed at other non-white groups in the region.”

16 9. Plaintiffs object to Defendants’ Statement of Material Facts No. 16 to
17 the extent that it suggests that the “voting rights of African-Americans were
18 protected in Washington” by the Fifteenth Amendment alone, without appreciating
19 that Blacks were discriminated against by racist whites, who feared “political
20 rivalries” with Blacks. Taylor Dep., at 83-84.

23
24
25
**PLAINTIFFS’ RESPONSES TO
DEFENDANTS’ STATEMENT OF
MATERIAL FACTS**

P. 4 OF 6

FARRAKHANII\Summary Judgement\Docs prep for filing\Resp. to
Ds’ Stmt of Mat. Facts.doc

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY

1 10. Plaintiffs do not object to Defendants' Statement of Material Facts
2 Nos. 17-19.

3 11. Plaintiffs object to Defendants' Statement of Material Facts No. 20 to
4 the extent that it fails to include a key finding of the Sentencing Guidelines
5 Commissions' 2003 report that "[p]eople of color are over-represented at every
6 stage of Washington's criminal justice system, from arrest through sentencing and
7 incarceration." See "Disproportionality and Disparity in Adult Felony Sentencing"
8 (2003). Exhibit 8, pgs 507-542.

9 12. Plaintiffs do not object to Defendants' Statement of Material Facts
10 Nos. 21-22.

11 13. Plaintiffs object to Defendants' Statement of Material Facts Nos. 23-
12 29 insofar as they are not material facts, are wholly unsupported by the record and
13 not critical to the burden of proof in this case.

14 Dated this ____ day of January, 2006.

15 UNIVERSITY LEGAL ASSISTANCE

16 s/ Larry A. Weiser, WSBA#: 6865
17 Larry A. Weiser, WSBA#: 6865
18 Jacob B. White WSBA# 92162, Legal Intern
19 Kristine K. Olmstead WSBA# 9088688
20 Legal Intern

21 PLAINTIFFS' RESPONSES TO
22 DEFENDANTS' STATEMENT OF
23 MATERIAL FACTS

24 P. 5 OF 6

25 FARRAKHANII\Summary Judgement\Docs prep for filing\Resp. to
Ds' Stmt of Mat. Facts.doc

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tamerton Vernon-Grandos, Law Clerk
Attorney for Plaintiffs
University Legal Assistance
721 North Cincinnati Street
P.O. Box 3528
Spokane, Washington 99220-3528
Telephone: (509)323-5791
Fax: (509) 323-5805
Email: lweiser@lawschool.gonzaga.edu

s/ Ryan P. Haygood
Ryan P. Haygood,
Pro Hac Vice
Theodore M. Shaw
Director-Counsel
Norman J. Chachkin
Debo P. Adebile
NAACP Legal Defense
& Educational Fund, Inc.
99 Hudson Street, Suite 1600
New York, NY 10013-2897
Telephone: (212) 965-2235
Fax: (212) 226-7592
Email: rhaygood@naacpldf.org

Attorneys for Plaintiffs

PLAINTIFFS' RESPONSES TO
DEFENDANTS' STATEMENT OF
MATERIAL FACTS

P. 6 OF 6

FARRAKHANII\Summary Judgement\Docs prep for filing\Resp. to
Ds' Stmt of Mat. Facts.doc

UNIVERSITY LEGAL ASSISTANCE
721 North Cincinnati Street - PO Box 3528
Spokane, WA 99220-3528
(509)323-5791 Telephone
(509)323-5805 Facsimile
(509) 323-3796 TTY