

RAYNES & LAWN

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DLP  
S. RICE  
PROTHONOTARY  
JUDICIAL DISTRICT OF PENNSYLVANIA

LONIE HAYNES, DLP  
278 Summit Avenue  
Pittsburgh, PA 15202,

Plaintiff,

v.

AMERISOURCEBERGEN CORPORATION  
1 West First Avenue  
Conshohocken, PA 19482,

and

GINA CLARK, Individually and in her  
capacity as Executive Vice President and Chief  
Communications & Administration Officer

AMERISOURCEBERGEN CORPORATION  
1 West First Avenue  
Conshohocken, PA 19482

and

SILVANA BATTAGLIA, Individually and in  
her capacity as Executive Vice President and  
Chief Human Resources Officer

AMERISOURCEBERGEN CORPORATION  
1 West First Avenue  
Conshohocken, PA 19482,

Defendants.

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

NOVEMBER Term, 2021

No.

JURY TRIAL DEMANDED

COMPLAINT

## COMPLAINT

1. In November 2020 AmerisourceBergen Corporation (“ABC” or “the Company”) hired Dr. Lonie Haynes as its first-ever Chief Diversity and Inclusion Officer. An African-American, Dr. Haynes was particularly qualified for this position. A U.S. Army veteran, he previously had spent nearly ten years as the Chief Diversity Officer at Highmark Health in Pittsburgh. He also spent more than 20 years at AT&T, Sprint, Bell South and the U.S. Army in human resources and other management positions. Nationally recognized for his commitment and hands-on-experience in developing and implementing principles of diversity and inclusion, Dr. Haynes also has three post-graduate degrees, including a doctorate in law and policy (“DLP”).

2. Recruited in the wake of the George Floyd murder, the Black Lives Matter movement and the significant disparities in healthcare that people of color have experienced during the COVID-19 pandemic, ABC trumpeted its decision to hire Dr. Haynes to the media, the SEC, its investors and shareholders. Below are examples of what Steve Collis, ABC’s CEO, said about him in its November 11, 2020 press release:

“Lonie brings an impressive history, a unique perspective and a proven ability to align diversity and inclusion with corporate strategy. I am confident he will be instrumental in helping us build a stronger workforce today and into the future.”

\* \* \*

“Diversity and inclusion are not just business priorities at AmerisourceBergen – they are a mindset that exists at every level of the organization. Establishing a Chief Diversity and Inclusion Officer role is a crucial step in our journey to be a

truly equitable organization, celebrates individuality while achieving our united purpose of creating healthier futures.”

3. Not to be outdone, in ABC’s January 28, 2021 Proxy Statement to the SEC, its Lead Independent Director, Jane E. Henney, wrote the following about the Company’s decision to hire Dr. Haynes:

“The Board of Directors believes that a vital part of developing inspired associates is fostering a diverse and inclusive culture. Under the oversight of the Compensation and Succession Planning Committee, we look forward to the Company advancing our long-term diversity and inclusion strategy focused on people, culture and community. To accelerate that effort, the Company recently appointed Dr. Lonie Haynes as its Chief Diversity & Inclusion Officer. Building on the Company’s long-standing commitment to diversity, Dr. Haynes has the full support of the Board and management to help AmerisourceBergen create a stronger workforce, mobilize associates through diversity and inclusion best practices, and help them develop and achieve their full potential.”

4. Once employed, Dr. Haynes set about doing what he was hired to do: to be a change agent, to develop a culture and practice of diversity and inclusion at ABC for its employees, its suppliers and the millions of consumers who daily depend on its array of healthcare products.

5. But his efforts were rebuffed and resisted by Gina Clark, ABC’s Executive Vice President and Chief Communication and Administration Officer, and Silvana Battaglia, ABC’s Executive Vice President and Chief Human Resources Officer, both of whom are White and to whom Dr. Haynes reported.

6. Less than a year after he was hired, in a Zoom call on Friday, October 1, 2021, Ms. Clark and Ms. Battaglia fired Dr. Haynes. They did so by accusing him of “compliance violations” he did not commit and for which they had no proof.

7. Not only were these charges false and malicious, they were a pretext. Dr. Haynes was fired because he is Black and for his espousal of the principles of diversity and inclusion for which he was hired by ABC.

8. ABC’s decision to terminate Dr. Haynes has caused him to suffer significant damage to his career, his reputation, his health and well-being. It also has been a blunt deterrent to the principles of diversity and inclusion for which he has built a national reputation and which ABC falsely billed to the public to enhance its image nationally and globally.

9. To remedy these violations of his right to equal employment opportunity, Dr. Haynes has filed this lawsuit under the 1866 Civil Rights Act, 42 U.S.C. § 1981, *as amended* in 1991 by 42 U.S.C. § 1981(a). As relief, he seeks a jury awarded verdict of back and front pay, compensatory damages for all the non-wage injuries he has suffered and an award of punitive damages to deter the defendants from any similar violations in the future.

## THE PARTIES

10. Plaintiff Haynes is a citizen and resident of Pennsylvania. He began his employment with ABC on November 2, 2020 as a Senior Vice President and Chief Diversity and Inclusion Officer.

11. Initially, Dr. Haynes reported to defendant Battaglia. In February 2021, he began to report to defendant Clark. Of the fifteen or so Vice Presidents and above who reported to defendants Battaglia and Clark, Dr. Haynes was the only African-American among them.

12. Assigned to work out of ABC's corporate office in Conshohocken, Pennsylvania, Dr. Haynes worked remotely from his home in Pittsburgh. Had he not been fired, Dr. Haynes and his wife would have moved to Philadelphia pursuant to his relocation agreement with ABC. That never happened because, on October 1, 2021, he was fired by defendants Clark and Battaglia.

13. Defendant ABC is a national and global wholesale distributor of prescription drugs, over-the-counter pharmaceutical products, and healthcare equipment that it supplies to pharmacies, hospitals, physicians, nursing homes and assisted living facilities. It supplies approximately 20% of all the pharmaceuticals sold and distributed in the United States. It currently is ranked 8th on the Fortune 500 list with more than \$210 billion in annual income.

14. In Philadelphia alone, ABC is the primary distributor of pharmaceutical drugs, supplies, equipment and other products to every major pharmacy and hospital in the City. This includes ABC's sales to Target, CVS and Walgreens. Among

Philadelphia hospitals, that includes the Jefferson and the University of Pennsylvania Health Systems. Its other Philadelphia clients include the City of Philadelphia's Board of Pensions.

15. Philadelphia is also where ABC has hosted meetings of its shareholders, officers and committees. Likewise, ABC has often filed and defended lawsuits in the Philadelphia County Court of Common Pleas.

16. Based on these averments, ABC has regularly, consistently and habitually conducted business in the City and County of Philadelphia.

17. At all relevant times, defendant Gina Clark has been ABC's Executive Vice President and Chief Communications and Administration Officer. She also is a member of ABC's Executive Management Committee. Together with defendant Battaglia, she made the decision to terminate plaintiff Haynes's employment.

18. At all relevant times, defendant Silvana Battaglia has been ABC's Executive Vice President and Chief Human Resources Officer. She also is a member of ABC's Executive Management Committee. Together with defendant Clark, she made the decision to terminate plaintiff Haynes's employment.

### **ADDITIONAL FACTS**

#### **The Events That Took Place on October 1, 2020 and October 4, 2021**

19. With no forewarning of what was about to happen, on October 1, 2021 Dr. Haynes was scheduled to have a one-on-one Zoom call with Ms. Clark.

20. When the Zoom call took place in the morning of October 1st, Ms. Battaglia was on it as well.

21. In their call, Ms. Clark and Ms. Battaglia told Dr. Haynes he was fired because he had committed “compliance violations” that required his immediate for-cause termination and, as a result, he would not be given any separation pay or benefits.

22. Dr. Haynes was never provided with anything in writing to explain or support the “compliance violations” of which he was accused.

23. Ms. Clark and Ms. Battaglia told him in their Zoom call that his alleged “compliance violations” related to his approval in the spring of 2021 of a vendor contract with a minority- and woman- owned firm (an “MBE” and “WBE”) named Promotional Gifts Source. Barbara Mahone, a Black woman, is the owner of that Atlanta-based firm which has been in business for more than 20 years and has had contracts over those years with the federal government, the State of Georgia, the City of Atlanta, a number of historically Black colleges and universities and Highmark Health when Dr. Haynes was employed there as its Chief Diversity and Inclusion Officer.

24. The contract with Ms. Mahone’s firm was for the provision of various promotional items for ABC’s executives and managers. The items included water bottles, leather journals, coasters, lanyards and tote bags -- all bearing ABC’s logo. ABC’s entire contract with Promotional Gifts Source involve four orders totaling approximately \$28,000.00.

25. Defendants Clark and Battaglia told Dr. Haynes he had no authority to approve that contract and questioned whether all the items had been delivered.

26. There was no basis for that accusation as Dr. Haynes made clear in the following ways to both of them. First, Ms. Clark herself had approved the contract. Second, Dr. Haynes by virtue of his position as Chief Diversity and Inclusion Officer had the authority up to \$150,000 to approve the contract. Third, Ms. Mahone's firm was a qualified MBE and WBE --just the kind of diverse supplier with whom ABC needed to do business in light of the fact that it was spending only ¼ of 1% of its purchasing budget on MBEs.

27. Ms. Battaglia and Ms. Clark had no response to these facts. Nor did Ms. Battaglia acknowledge that *she herself* had received one of the promotional items sent to ABC by Ms. Mahone's firm.

28. Nor did Ms. Battaglia and Ms. Clark have any response to Dr. Haynes's denial of their additional accusation that his wife had a financial interest in Ms. Mahone's firm. That accusation, he told them, was utterly false. He explained that about 20 years ago his wife had her own firm and had partnered with Ms. Mahone's firm, but that relationship had ended long ago and that for the last seven years his wife has been an educator in the Pittsburgh public school system. Moreover, he told them, at no point, then or ever, did he or his wife have any financial or business interest in Ms. Mahone's firm.

29. Despite these readily ascertainable facts, Ms. Clark and Ms. Battaglia were unmoved and refused to rescind ABC's decision to terminate Dr. Haynes's employment.

30. Nonetheless, later in the day on October 1, 2021, after they had fired Dr. Haynes, both Ms. Clark and Ms. Battaglia confirmed with Dr. Haynes's staff that the

contract with Ms. Mahone's firm was valid, that she was a qualified MBE and WBE, and that many of the items subject to the contract already had been delivered -- including the one received by Ms. Battaglia -- and the balance were awaiting artwork still to be provided by ABC.

31. Nor was that all that ABC learned *after* it fired Dr. Haynes.

32. On Monday, October 4, 2021, an ABC investigator contacted Ms. Mahone. At that time, she provided him with the Federal Express and USPS tracking numbers for the products she already sent to ABC. She also provided him with a spreadsheet identifying the 40-50 ABC executives and managers to whom the products had been sent as well as the addresses of each recipient. She also identified the orders still to be delivered because ABC had not yet sent her the artwork needed to complete their delivery.

33. Not once since then has ABC contacted Ms. Mahone about the orders her firm had with it.

34. Nor, having obtained this vindicating information *post hoc*, have the defendants done anything to rescind their decision to fire Dr. Haynes and clear the harm done to his good name and reputation.

**Race: The Real Reason Why  
ABC Fired Dr. Haynes**

35. It is of course a well-recognized principle of evidence that proof of an employer's "mendacity" is often enough to establish proof of its discriminatory intent. *See, e.g., Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 147 (2000); *id.* at

154 (“it is a principle of evidence law that the jury is entitled to treat a party’s dishonesty about a material fact as evidence of culpability” (Ginsburg, J., concurring).

36. Such is the case here in light of ABC’s false and malicious accusation that it fired Dr. Haynes because he engaged in “compliance violations.”

37. But there is far more than ABC’s mendacity to prove that its decision was no more than a mask to cover up its real motive, *i.e.*, it fired Dr. Haynes because of his race and his advocacy for a diverse and inclusive work force at ABC. Consider the following facts.

38. Ms. Clark and Ms. Battaglia rebuffed Dr. Haynes’s recommendation that ABC should increase the number of African-Americans on its Board of Directors (out of 10 Board members, only one, Henry McGee, is Black).

39. Similarly, Ms. Clark and Ms. Battaglia rejected his recommendation that its Executive Management Committee on which they served and which has no Black members should be made more diverse and inclusive.

40. They also rejected his recommendation for the Board to add a separate Diversity and Inclusion Committee along with the six other committees that report to it.

41. So too, they disapproved his recommendation for an annual Diversity and Inclusion report to detail for the Board ABC’s strategies for making its workforce more diverse and inclusive and to identify the employees, particularly its executives and managers, according to their race, gender and disability.

42. In a similar vein, they adamantly told Dr. Haynes not to provide ABC's Board of Directors with detailed information about the dearth of qualified African-Americans, women and disabled employees in leadership positions at the Company.

43. Ms. Clark and Ms. Battaglia were also critical of Dr. Haynes's decision to hire Taran Swan, a qualified Black woman with an M.B.A. degree from Harvard University, as his Executive Coach, and forbade him from continuing to use her services.

44. They likewise rejected Dr. Haynes's effort to hire Miriam Muley, a qualified Black/Latina woman with an M.B.A. degree from Columbia University and the owner of a WBE firm, 85% Niche, to act as a consultant until he was able to hire a Director to be part of his Diversity and Inclusion team.

45. Rather than support Dr. Haynes in his effort to retain Ms. Muley and her WBE firm, defendant Clark urged him instead to hire a White woman, Barbara Anderson, as a Director on his team even though Ms. Anderson was not even selected for an interview for that position by ABC's own recruiter.

46. Ms. Clark also rejected Dr. Haynes's request to hire a National Urban Fellow to work at ABC during the school year, a commitment Dr. Haynes believed would place a spotlight on ABC's stated goal in opening pathways for employees of color.

47. Another sign that Ms. Clark and Ms. Battaglia had no interest in continuing Dr. Haynes's employment occurred in August 2021. It was then that he was told by Ms. Clark that he should defer his plans to move to Philadelphia -- which he and his wife had intended to do and for which ABC agreed to reimburse him in its offer letter of employment.

48. After ABC fired Dr. Haynes, it assigned his duties as Chief Diversity and Inclusion Officer to a White female, Susan Lorenz-Fisher, its Vice President in charge of Corporate Responsibility and Sustainability. It also assigned his former staff to her and in the process elevated a White female Program Manager, Erin Hynes, to the same organizational level as Ky'a Jackson, the Black Director of Diversity to whom Ms. Hynes had previously reported.

### Damages

49. As a direct and proximate result of the defendants' decision to terminate the employment of Dr. Haynes, he has suffered the loss of his job and the salary, bonus, stock, equity rights and all the employee benefits to which he was otherwise entitled at ABC.

50. In addition to the loss of his job and the wages he would have earned, Dr. Haynes has suffered irreparable harm to the national reputation he earned as a subject matter expert and leader in putting teeth into the words "diversity and inclusion" -- the very reason he was hired by ABC and for which it touted him to the public, the SEC and its investors.

51. Nor did defendants keep mum about its decision to fire Dr. Haynes.

52. On the same day they fired Dr. Haynes, October 1st, defendants Clark and Battaglia informed Taran Swan (plaintiff's former executive coach) and Cheryl Whaley, partners in the consulting firm Paradox Strategies which provides corporations nationally

with leadership strategies and solutions, that ABC had fired Dr. Haynes due to the “compliance violations” he had committed and not for performance reasons.

53. Defendants Clark and Battaglia also communicated the same information to the members of ABC’s Human Resources Department.

54. The severity of the harm done to Dr. Haynes’s reputation extends to his status as a United States Army veteran and his involvement in organizations designed to assist persons with disabilities, including his Board membership with the American Association of People with Disabilities. His reputation as an expert on the federal government’s requirement for the hiring and employment of veterans and disabled persons under Sections 503 and 504 of the Rehabilitation Act -- ones with which ABC must comply as a government contractor -- has also been sullied and tarnished by ABC’s decision to fire him due to “compliance violations” he did not commit.

55. In addition to these injuries, the defendants’ decision to terminate Dr. Haynes’s employment has caused him significant pain and suffering, embarrassment, humiliation, loss of self-respect and confidence, and the loss of enjoyment of life’s pleasures.

56. Nor has Dr. Haynes been alone in being harmed by the defendants’ decisions. By its very nature, their decision to fire him for “compliance violations” -- false, malicious and reckless as they are -- will have an adverse effect on other Black professionals and aspiring professionals who seek work with ABC or other national corporations. For that, punitive damages are appropriate to deter similar misconduct in the future.

## COUNT I

### **PLAINTIFF'S CLAIM OF RACE DISCRIMINATION UNDER SECTION 1981**

57. Plaintiff Haynes repeats and incorporates by reference paragraphs 1 through 56 of his Complaint as though they were set forth in full.

58. Defendants ABC, Clark and Battaglia terminated plaintiff Haynes's employment on account of his race in violation of 42 U.S.C. § 1981, as amended by 42 U.S.C. § 1981(a).

59. As amended, 42 U.S.C. § 1981(a) guarantees to "[a]ll persons . . . the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens."

60. As construed by the Supreme Court long ago, Section 1981 creates a private right of action on behalf of Black and other racial minorities, whether employees at-will or not, and allows courts and juries to award them the fully panoply of legal and equitable relief to which they are entitled for the violation of their right to equal employment opportunities. *See, e.g., Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454, 459 (1975).

61. As a direct and proximate result of the violations of his rights under Section 1981, plaintiff Haynes has suffered a loss of wages and earnings potential, harm to his reputation, pain and suffering, embarrassment, humiliation, loss of self-respect and confidence, and loss of the enjoyment of life's pleasures.

WHEREFORE, plaintiff Haynes respectfully seeks a jury verdict in his favor and against all the defendants, jointly and severally, in an amount to fully compensate him for

all his wage losses, for all his non-wage injuries, for punitive damages and for recovery of all his reasonable counsel fees and costs.

## COUNT II

### PLAINTIFF'S CLAIM OF RETALIATION UNDER SECTION 1981

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62. Plaintiff Haynes repeats and incorporates by reference paragraphs 1 through 61 of his Complaint as though they were set forth in full.

63. Defendants ABC, Clark and Battaglia terminated plaintiff Haynes's employment in retaliation for his advocacy of the rights of people of color, women and disabled workers -- the very reasons for which he was hired and about which ABC and its Board of Directors trumpeted his employment to the national media as well as its investors, shareholders and the SEC.

64. Retaliating against Dr. Haynes in that manner constitutes a violation of Section 1981(a) as construed by the United States Supreme Court. *CBOCS West, Inc. v. Humphries*, 553 U.S. 442, 457 (2008).

65. As a direct and proximate result of the violations of his rights under Section 1981, plaintiff Haynes has suffered a loss of wages and earnings potential, harm to his reputation, pain and suffering, embarrassment and humiliation, loss of self-respect and confidence, and a loss of the enjoyment of life's pleasures.

WHEREFORE, plaintiff Haynes respectfully seeks a jury verdict in his favor and against all the defendants, jointly and severally, in an amount to fully compensate him for

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By: 

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20th Floor  
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215-568-6190

Attorneys for Plaintiff Lonie Haynes, DLP

Dated: November 3, 2021

**VERIFICATION**

I, Lonie Haynes, Ph.D., hereby state that I am the plaintiff herein; that I am acquainted with the facts set forth in the foregoing Complaint; that the facts set forth are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa.C.S.A. § 4904, which relates to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to be 'Lonie Haynes', written over a horizontal line.

Lonie Haynes, Ph.D.

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA

LONIE HAYNES, DLP  
278 Summit Avenue  
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COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

NOVEMBER Term, 2021

No.

JURY TRIAL DEMANDED

NOTICE TO DEFEND

NOTICE

AVISO

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascender una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

*You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.*

*Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.*

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Lawyer Referral  
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One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

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